

C-3(b,c): Groundfish Processing Sideboards and Pollock Processing Excessive Share Caps

Groundfish Processing Sideboards and Excessive Share Caps: The Council is scheduled for initial review of the groundfish processing sideboard and pollock processing excessive share analysis at this meeting. The amendment package on these issues was mailed to the Council family on May 25 after additional analyses which were requested at the April meeting. Regarding excessive share caps, the Council requested that the analysis examine alternatives which ranged between 10 and 30 percent of the BSAI pollock TAC. This cap may or may not include processing of CDQ pollock, depending on the alternative selected by the Council. A copy of the executive summary, which includes the alternatives under consideration and the primary decision points that the Council will need to address, are included as Item C-3(b,c)(1). However, the only decision required by the Council at this meeting is whether the document is adequate to release for public review. If the document is released for public review, the Council will be scheduled to make a final decision on this issue at the October meeting in Sitka, or perhaps an additional meeting that may be scheduled for September. Should the Council move forward on this schedule, those amendments would be expected to be implemented in 2002. Staff will present the revised analysis at this time, followed by a review of information relative to the crab processing caps.

Review of Crab Processing Caps for the 2000 Opilio Crab Fishery: Following the Council's request in April to review the crab processing caps, the State of Alaska has developed a discussion paper outlining the impacts that processing sideboards had on the 2000 opilio crab fishery. That discussion paper is included here as Item C-3(b,c)(2). A summary of processing by AFA and non-AFA firms is provided in the supplemental folder. The information includes the 2000 fishery, when AFA was in place, and years prior to the implementation of the AFA.

Removing or altering the crab processing sideboards regulations will require the Council to revisit their previous action on this issue, which was based on the specific language in the AFA. Section 213 of the AFA allows the Council to supercede specific provisions of the AFA, if they can demonstrate adverse impacts. In order for any changes to these caps to be in place in time for the 2000 BBRKC fishery, action would be required at this meeting, which would have to be implemented via an emergency rule. Alternatively, the Council may wish to schedule this issue for October in conjunction with final action on the groundfish processing sideboards. An emergency action would then be required to have an amended crab processing sideboard package in place for the start of the 2001 opilio fishery.

Written comments received on these issues are provided under Item C-3(b,c)(3).

E1 Executive Summary

This document provides an assessment of the effects of imposing limits on the amount of groundfish in the Gulf of Alaska and Bering Sea and Aleutian Island that processors participating in cooperatives under the American Fisheries Act could process. The document also examines the effects of an excessive share cap on the amount of Bering Sea and Aleutian Island pollock that any given entity comprising AFA facilities could process. The document is divided into five sections, an introduction, a discussion of environmental considerations, an assessment of AFA processing limits, an assessment of an excessive share cap on the processing of pollock in the Bering Sea and Aleutian Islands, and a summary section that addresses other applicable laws.

The problem statement developed by the Council in February 2000 to address the processing sideboard and excessive share issues is presented below:

The American Fisheries Act (AFA) was passed by Congress in the fall of 1998. The AFA established non-CDQ allocations of BSAI pollock among three major sectors (offshore, inshore, and motherships), it established specific limitations on who could participate in the harvest and processing of BSAI pollock, and it facilitated the formation of fishery cooperatives in the BSAI pollock fisheries. In establishing these operating advantages for the pollock fishery participants, the AFA recognized a need for limiting their participation in other, non-pollock fisheries as necessary to prevent adverse impacts on traditional harvesters and processors of those other fisheries due to the AFA or cooperatives in the pollock fishery. Congress directed the Council to address these concerns by developing processor sideboards and excessive share caps. The problem before the Council is to develop measures that take into account the impacts on AFA and non-AFA harvesters and processors, and fishing communities.

E1.1 Processing Limits

Chapter 3 examines the impacts of establishing processing limits on non-pollock groundfish in the Bering Sea and Aleutian Islands and all groundfish in the Gulf of Alaska (including pollock) by processors eligible to participate in pollock cooperatives under the American Fisheries Act (AFA). The analysis examines the language in the AFA, shows the organizational structure of the industry, provides a detailed assessment of the status quo, and develops 10 specific options to implement processing limits, sometimes referred to as "processing sideboards". It then calculates the percent of the total allowable catch (TAC) in the GOA and BSAI that could be processed by AFA processor and associated facilities based on the structure of the industry and options specified. Conclusions are drawn regarding the efficacy of the options in fulfilling the mandates of the AFA.

E1.1.1 The Organizational Structure of the Pollock Processing Industry

The AFA directs the Council to provide protection to non-AFA processors from the AFA processors that may benefit from participation in pollock cooperative. The AFA also introduces the concept of AFA entities as follows: "Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph." Entities that are linked by this "10% Ownership Rule" to AFA-eligible processing facilities are referred to as AFA entities.

The language in the AFA regarding the 10% Ownership Rule is subject to interpretation. A preliminary analysis in June 1999 used a literal interpretation of the 10% Ownership Rule. Because of the potentially far-reaching consequences of the literal interpretation of the 10% Ownership Rule, a more limited interpretation was developed. This interpretation known as the 10% Limited Rule was presented to the Council in October. The 10% Limited Rule recognizes the limits of the stream of benefits that could result from participation in AFA pollock cooperatives.

NMFS also recognized the far-reaching implications of a literal interpretation of the 10% rule, and chose to develop their own interpretation for implementing processor limits for crab and harvesting limits for AFA harvesters. NMFS interpretation is based on a multiplicative algorithm that enables them to assess the level of

ownership where very complicated ownership structures exist. The language of the NMFS interpretation of the 10% Ownership Rule is as follows.

10-percent ownership standard. For purposes of this definition, all individuals, corporations or other entities that either directly or indirectly own a 10 percent or greater interest in the mothership, inshore processor or pollock harvesting-entity, as the case may be, are considered as comprising a single AFA entity. An indirect interest is one that passes through one or more intermediate entities. An entity's percentage of indirect interest is equal to the entity's percentage of direct interest in an intermediate entity multiplied by the intermediate entity's percentage of direct, or indirect interest in the mothership, inshore processor or pollock harvesting entity, as the case may be.

Outcomes using NMFS' 10 percent ownership standard mirror outcomes using the 10% Limited Rule in relatively straightforward situations, and provide more guidance than the 10% Limited Rule in more complicated situations. Therefore NMFS' 10 percent ownership standard, along with NMFS' 10 percent control standard, is used in the analysis to determine AFA entities. AFA companies are determined by using similar 50 percent ownership and control standards. Ownership interests of AFA processors in companies and entities developed in organization charts in Chapter 3. The organization charts were based on research in public databases and on interviews with owners and officers of processing firms.

The analysis of the ownership structure using the 10 percent ownership and control standards indicates that there are a total of 12 AFA entities described in Table 1. If 50 percent ownership and control standards are used to define AFA companies, only 3 AFA facilities would be directly affected—rather than a single entity comprising the *F/V Arctic Storm*, *F/V Arctic Fjord*, and *M/V Ocean Phoenix*, two separate companies would be defined, one comprising the *F/V Arctic Storm* and *F/V Arctic Fjord*, the other consisting of *M/V Ocean Phoenix*.

Table 1. Summary of AFA Entities as Defined with the 10 Percent Ownership and Control Standards

Entity	Description
Alaska Ocean LLP	The entity comprises the <i>F/V Alaska Ocean</i>
Alaska Trawl Fisheries	The entity comprises the <i>F/V Endurance</i>
Aleutian Spay Fisheries APICDA, CVRF, Prowler LLC, and Ocean Prowler LLC	The entity comprises the <i>F/V Starbound</i> , as well as 5 fixed gear catcher processors (<i>F/V Horizon, F/V Prowler, F/V Bering Prowler, F/V Ocean Prowler</i>) and shore plants in Atka, and False Pass (under construction).
American Seafoods Inc., CVRF	The entity comprises American Seafoods' 7 AFA-eligible pollock catcher processors , 11 AFA-ineligible catcher processors, the <i>F/V Beagle</i> an H&G catcher processor, and the <i>F/V Ocean Prowler</i> .
Phoenix Processor LP, Arctic Storm Inc, Arctic Fjord Inc, and BBEDC	The entity comprises 3 AFA processing vessels <i>F/V Arctic Storm, F/V Arctic Fjord, M/V Ocean Phoenix</i> , and the <i>F/V Bristol Leader</i> , a fixed gear catcher processor.
Glacier Fish Company, which is owned 50 percent by NSEDC.	The entity comprises the <i>F/V Pacific Glacier, F/V Northern Glacier, F/V Norton Sound</i> and 3 shore plants in small shore plants in the Nome area.
Highland Light /Yard Arm Knot Holdings	The entity comprises the <i>F/V Highland Light, F/V Yardarm Knot, F/V Westward Wind</i> ; the latter are pot and fixed gear catcher processors.
Icicle Seafoods, Inc.	The entity comprises the <i>M/V Northern Victor</i> , 4 floating processors <i>M/V Arctic Star, M/V Bering Star, M/V Coastal Star, M/V Discovery Star</i> , and shore plants in Petersburg and Seward.
Maruha Corporation and its subsidiaries, (Supreme Alaska, Westward Seafood, and Western Alaska Fisheries), and Wards Cove Packing Company	The entity comprises the <i>M/V Excellence</i> , 2 AFA shore plants in Dutch Harbor , a shore plant in Kodiak, two non-AFA catcher processors (<i>F/V Titan, and F/V Pacific Knight</i>) and 14 non-AFA processing facilities owned by Wards Cove Packing.
Nichiro Corporation, its subsidiary Peter Pan Seafoods, and Seven Sea Fishing Company	The entity comprises an AFA shore plant in King Cove , the <i>M/V Golden Alaska</i> , shore plants in Valdez, Port Moller, and Dillingham, and the 2 non-AFA catcher processors <i>F/V Blue Wave, F/V Stellar Sea</i> .
Nippon Suisan, its subsidiary Unisea, Inc., and Dutch Harbor Seafoods	The entity comprises an AFA shore plant in Dutch Harbor , and 2 non-AFA processing barges in St. Paul (<i>Unisea</i>)vessels, and the floating processor <i>M/V Omnisea</i>
Trident Seafoods Corporations	The entity comprises 2 AFA shore plants one in Akutan and one in Sand Point , all of the processing facilities formerly owned by Tyson Seafoods, including 5 AFA catcher processors and 1 AFA floating processor . The entity also comprises 13 other non-AFA processing vessels, and 6 other non-AFA shore plants.

Notes: Bolded text indicates an AFA eligible processing facility.

E1.1.2 Identification of Ten Options

The analysis identifies ten different ways the processing limits could be applied as follows:

- Option 1 **Overall Limits Applied to All Facilities within AFA Entities.** A single, overall processing limit would be set for each species. AFA entities would be defined as an organization under which all processing facilities that are associated with AFA facilities by a 10 percent ownership and control standard. Once the overall limit is reached, no additional processing of the limited species by any included facility in any of the entities would be allowed.
- Option 2 **Overall Limits Applied to All Facilities within AFA Companies.** A single, overall processing limit would be set for each species. AFA companies would be defined as all processing facilities that are associated with AFA facilities by the 50 percent ownership and control standards.
- Option 3 **Overall Limits Applied to All AFA-eligible Facilities.** A single, overall processing limit would be set for each species. Only AFA processing facilities would be included.

- Option 4 **Sector-Level Limits Applied to All Facilities within AFA Entities.** Sector-level processing limits for each species would be imposed upon all facilities in AFA entities. Three sectors would be defined (catcher processor, mothership, and inshore) on the basis of existing inshore-offshore regulations.
- Option 5 **Sector-Level Limits Applied to All Facilities within AFA Companies.** Sector level processing limits for each species would be imposed upon all facilities in AFA companies. Three sectors would be defined on the basis of existing inshore-offshore regulations.
- Option 6 **Sector Level Limits Applied to AFA Facilities.** A processing limit for each species would be applied to each sector. Only AFA facilities would be included.
- Option 7 **Individual Entity Limits Applied to All Entity Facilities.** Individual processing limits would be imposed on each AFA entity.
- Option 8 **Individual Company Limits Applied to All Company Facilities.** Individual processing limits would be issued to each AFA company. All processing facilities owned by AFA Companies would be included.
- Option 9 **Individual Company Limits Applied to AFA Facilities.** Processing limits would be imposed on each AFA company, but only AFA-eligible facilities would be included.
- Option 10 **Individual Plant and Vessel Limits.** An individual facility-level processing limit would be imposed on each AFA plant or vessel.

Additionally, the following suboptions are examined:

- excluding catcher/processors from further processing sideboard limits
- determination of basis for calculation (TAC vs. tons processed)
- treatment of 9 retired vessels' history
- CDQ exemption from sideboard limits

E1.1.3 Assessment of the Status Quo

Section 3.3 contains an assessment of the status quo with a focus on conditions that currently exist that will constrain the ability of AFA processors to act in a way that may be harmful to non-AFA processors, or conversely existing conditions that currently exist that might increase the likelihood that AFA processors could harm non-AFA processors.

Subsection 3.3.1 contains an overview of existing regulations from AFA and from the groundfish FMPs that are relevant to the processing limit issue. In general it appears that for many fisheries existing regulations already provide some constraints on AFA processors. These constraints include the 2004 AFA expiration date, AFA harvesting sideboards, AFA restrictions on CPs in the GOA, the LLP program, Inshore-Offshore in the GOA, Pacific cod allocation in the BSAI and the PSC limits. In addition, the subsection summarizes non-fishery regulations such including loadline restrictions and a summary of regulations restricting anti-competitive behavior.

Subsection 3.3.2 the summarizes processing in eleven major fisheries in the BSAI and GOA including the longline, pot, and trawl fisheries for Pacific cod, the pollock fisheries, the flatfish fisheries and the Atka Mackerel fishery (BSAI only). The subsection indicates total reported tons of both AFA and non-AFA processors for the years from 1995 through 1999. Also included are lists of the top 60 processors in each fishery. The subsection continues with tables showing products, wholesale prices and product values and ends with a brief summary of global markets for flatfish.

E1.1.4 Assessment of Processing Limits

The analysis estimated the percentage of past processing by species group and area reported by AFA processors under the different options. Three historical periods were examined: 1995-1997, 1998-1999, and 1995-1999. Tables showing these percentages are included in Chapter 3.

The analysis also examines the effect of processing limits in a more qualitative manner from the perspective of AFA processors, non-AFA processors, non-AFA processors that may be restricted under the limits, catcher vessels, and NMFS. In all, eleven different objectives were listed, and are used to provide qualitative assessment of the 10 different options.

E1.1.4.1 Effectiveness of Limits: A Comparison of Overall, Sector, and Individual Limits

On a nominal basis, overall limits, sector-level limits, and individual limits all limit AFA processing facilities to the same percentage of each species in each area. In other words, for each species and area, the sum of the individual limits are equal to sum of the sector-level limits, which are equal to the overall limits. Therefore, on the surface, it would appear that non-AFA processors would be ambivalent between the three types of limits. However, because there are additional restrictions on catcher processor activities in the GOA within the AFA, sector-level limits would actually allow AFA processors to process less GOA groundfish than either overall limits or individual limits. With overall limits, and to a lesser extent with individual limits, AFA processors that are not restricted from participating in the GOA would be able to process the groundfish that had been processed by catcher processors during the historical period. Therefore non-AFA processors would very likely favor sector level limits over individual limits, and individual limits over overall limits.

AFA processors have indicated their preference for the status quo. But if processing limits are imposed it is unclear whether they overall limits or individual limits—the fact that sector-level limits would reduce the amount available to AFA shore plants in the Gulf makes it clear that sector-level limits would not be preferred.

The experience of AFA processors with individual processing limits in the BSAI opilio crab fishery in 2000 was not favorable. The very short season, the intense race for fish the lack of a real-time reporting system and the fact that NMFS placed the enforcement burden of the limits on the AFA companies made the individual processing limits difficult to accept, and the idea of overall limits more palatable.

However, an important factor for AFA processors is the specter of increased competition among AFA processors for non-pollock groundfish that could occur with overall limits. Furthermore with longer seasons and the reporting system for groundfish, the concerns of AFA processors with individual limits may be reduced. Under overall limits AFA processors will face the possibility of competing against other AFA processors to get their share before the AFA limit is reached—they will also need to compete against all non-AFA processors, who will not be restricted in any way. The intensified race for fish could be avoided if processing limits are imposed at the individual level. Although individual limits will not constitute an allocation and individual AFA processors will face continued competition from non-AFA processors, AFA processors will not need to compete with other AFA processors. In addition it is likely that individual processing limits will allow AFA processors more flexibility than with overall or sector-level limits to allocate their processing capacities and other resources, and allow them to realize more of the potential benefits of the AFA, within their historical processing shares.

Competition appears to be the driver of catcher vessel owners' attitudes toward AFA processing limits. From the perspective of catcher vessel owners it appears that the status quo would be preferred to any limits. However, if processing limits must be imposed it appears they would favor overall limits on AFA processors. Overall limits would offer the greatest level of competition—while individual processing limits would be anathema.

Annual implementation and in-season enforcement of individual-level limits appear to be less burdensome to NMFS than overall processing limits or sector-level limits. With overall or sector level processing limits, it is likely that NMFS will have to enforce at least two types of closures in order to enforce the processing limits and to still allow the processing of limited species as bycatch. The two types of closures would be:

1. A directed processing closure when the AFA processing total reaches a pre-determined percentage of the processing limits. A closure of directed processing will allow AFA processors to retain and process limited species when they are delivered as bycatch.
2. A closure to all processing when the full processing limit is reached.

If processing limits are imposed at the sector level, NMFS may have the additional burden of determining which processing facilities belong to which sector. This additional burden will occur if sector-level limits are imposed on AFA companies or on AFA entities. If sector-level limits are imposed only on AFA-eligible facilities, then the sector definitions are predetermined.

If processing limits are imposed on individual processors, NMFS may be able to shift most of the monitoring burden onto the processors themselves. In such cases NMFS could report weekly cumulative processing totals to the processors, but the processors themselves would have the responsibility of determining when they should cease processing for directed fisheries. Under this scenario it may be possible to make enforcement a post-season process involving fines and sanctions for those processors that exceed their limits.

E1.1.4.2 Effectiveness of Limits: A Comparison of Applying Limits to Entities, Companies, or Facilities

Processing limits applied to AFA facilities will be restrictive, but less restrictive than limits applied to companies or entities. If processing limits are applied to facilities, either as a group or individually, AFA processors participating in cooperatives would not be able to increase their shares of processing of crab and groundfish species under the jurisdiction of the NPFMC. AFA facilities would, however, be able to increase their relative processing shares of species managed solely by the State of Alaska, such as salmon, herring, and other shellfish. Additionally, limiting the processing of AFA facilities would not constrain the ability of the owners of the facilities to use AFA profits to increase their non-pollock processing shares at other facilities in which the AFA owners may have an interest.

Processing limits applied to AFA companies rather than to AFA facilities will be more effective in limiting the ability of owners of AFA facilities to increase their shares of non-pollock processing. The effectiveness of processing limits on AFA companies depends largely on the ability to define AFA companies. The analysis defines AFA companies using a 50 percent ownership and control standard. Under this definition, non-AFA facilities owned by AFA companies or by subsidiaries of AFA companies are included in the processing limits. Thus if an AFA owner wishes to increase its shares of crab or groundfish other than BSAI pollock, it would have to do so as a minority partner. The processing limits would not place a constraint on AFA companies wishing to increase their processing shares of halibut or of species managed solely by the State of Alaska, such as salmon, herring, and other shellfish.

Processing limits applied to AFA entities as defined by NMFS' 10 percent ownership and control standards would appear to be more effective than limits imposed on AFA companies. With NMFS' 10 percent ownership and control standards it will be much more difficult for AFA owners to use profits resulting from the AFA to invest in greater processing capacity. If AFA owners wish to make new capital investments in non-pollock processing, they could make investments in salmon and herring fisheries or make investments at levels less than 10 percent of the capital value of the processors in which they are investing. In addition, because of the limits AFA processors would bring, existing owners may not welcome new investment associated with AFA profits.

Imposing processing limits on AFA entities will have some unintended consequences. Processing limits imposed on AFA entities will create significantly more paperwork for NMFS and the processing industry than the other options. This additional burden will be time-consuming and expensive, and may be viewed by many as a significant intrusion of government into private affairs of industry. Additionally, if limits are imposed on AFA entities, AFA owners will be prevented from investments in groundfish processing capacity, and may choose instead to invest in additional processing capacity in species that are not limited, such as salmon, herring and halibut. Additional competition for the same processors that are calling for the limits could result.

Imposing processing limits on entities will also create other unintended consequences by limiting the activities of processors that may not be able to experience any of the benefits of the AFA. These consequences are perhaps most easily understood by using ownership interests of the APCIDA as an example. As shown in Figure 15d APCIDA has a minority interest in F/V *Starbound* an AFA catcher processor. Prior to buying into the *Starbound*, APCIDA had purchased ownership interests in three freezer longliners, the *Prowler*, the *Bering Prowler*, and the *Ocean Prowler*. The other partners of these vessels do not appear to be associated in any significant way with any AFA pollock processors, and would be very unlikely to benefit from any additional profits resulting from the *Starbound's* ability to participate in a pollock cooperative. However, because of APCIDA's ownership in the *Starbound*, these three freezer longliners would be limited under the AFA processing limit using a 10 percent ownership standard. This potential problem could be mitigated with the CDQ exemption discussed above.

It appears that use of a 10 percent ownership and control standard in the application of processing limits will have both positive and negative impacts. On the positive side it will provide additional protection to processors that have no links or minor links to AFA owners. On the negative side it may restrict and potentially harm processors that are unlikely to actually benefit from the AFA.

In addition, limits on AFA entities could lead to increased investments in salmon and herring processing. Finally, the paperwork and enforcement if limits are applied to AFA entities will be more burdensome and expensive for both NMFS and the industry. Therefore, it is uncertain whether the additional protection gained by applying processing limits to AFA entities outweighs the negative impacts.

Given the possibility of ambiguous results if processing limits are applied to AFA entities, the Council may wish to approve a less restrictive option in order to fulfill its mandate to protect non AFA processors, or examine other options for defining AFA entities.

E1.1.4.3 A Comparison of Processing Limits to the Status Quo

The processing limits will place additional constraints on AFA processors from increasing their share of non-pollock groundfish. However, it is likely that many of these constraints will not be binding. AFA harvest sideboard limits, PSC limits, Inshore-Offshore regulations in the GOA, Pacific cod regulations in the BSAI, and other enforced restrictions may be more constraining than the processing limits, particularly if the processing limits are estimated as a percentage of total harvests.

Other constraints may also be very important, including the fact that AFA processors will be watched carefully in the coming years. The intense scrutiny that is likely may serve as a major limiting factor in the actions of AFA processors. If they are perceived to be taking undue advantage of the benefits that accrue to them, then it is less likely that the AFA will be reauthorized in the future, and it is less likely that other programs similar to AFA will be enacted. The possibility that the gains achieved through AFA can be taken away as quickly as they were obtained is likely to keep AFA processors from acting in an anti-competitive nature.

E1.1.5 Decisions, Assumptions and Issues

This section describes the decisions that will be necessary to create a final alternative for AFA processing limits. The following assumptions and issues underpin the specification of options above and the analysis, and need to be carefully considered by the Council. If the Council chooses to develop a preferred processing limit alternative that could be compared to the status quo, it is recommended that they make a decision regarding each of the following points:

1. Determine whether to create overall, sector-level, or individual processing limits.

The aggregation level at which to create processing limits is first of the two key decision points that determine the specification of a processing limit alternative. If overall limits are chosen a single aggregate cap would be set for each species and area for all AFA processors. If sector-level limits are chosen three caps (one each for catcher processors, motherships, and shore plants) would be set for each species and areas. If

individual limits are a set then each AFA processor will be capped for each species and area. Determinations of which processors are included in the limit is dealt with in the next decision point.

2. Determine whether AFA processing limits will be applied to AFA facilities, companies, or entities.

Processing limits could be applied to the processing plants and vessels that are AFA eligible to participate in BSAI pollock cooperatives. Alternatively the Council could choose to expand the number of facilities that would be constrained by the limits by including all processing facilities that are owned by companies that own AFA eligible processing facilities. If limits are applied to AFA companies, it is assumed that a 50 percent ownership and control standard would be used. Finally, the Council could choose to limit all processing facilities in AFA entities. If limits are applied to AFA entities then it is assumed that a 10 percent ownership and control standard would be used.

3. Determine whether to include catcher processors under the processing limits:

Catcher processors are currently restricted from processing any crab in the BSAI, and have relatively strict limits on groundfish processing in the GOA. The Council could choose to exclude all catcher processors from additional processing limits as proposed here. Alternatively the Council could choose to exclude only those catcher processors which are not associated with companies or entities that own AFA motherships or AFA shore plants—this would be consistent with the BSAI processing limits on crab.

4. Determine the fisheries for which processing limits will be established. (BSAI crab processing limits have been established in separate rulemaking.)

The analysis used five species groups to estimate limits of Non-pollock BSAI groundfish and six in the GOA rather than specific species. The species groups are: Pacific cod, Atka mackerel, flatfish, rockfish, other groundfish, and pollock (GOA only). The Council may wish to use different species or species grouping, or to exclude certain species.

5. Determine the areas in which to apply processing limits.

The analysis assumed that processing limits would be imposed in both the GOA and the BSAI. The council could choose to impose processing limits on more detailed subareas (Eastern Gulf, Western Gulf, Central Gulf, Bering Sea, Aleutian Islands) or they could choose to exclude areas.

6. Determine method for calculating processing limits.

The analysis uses the following generalized formula to estimates the percentage of the current year TAC of each species group in each area that AFA processors (entities, companies, or facilities) would be allowed to process:

$$\text{total reported tons from all AFA processors} \div \text{total reported tons from all processors}$$

Alternatively the Council could choose to use only retained catches in the percentage calculation. This formulation would yield lower percentages for AFA processors if AFA processors retained relatively less fish than non-AFA processors. While this formulation is not reported for each option, the effects are demonstrated in Subsection 3.4.11 for Option 4. Under this formulation, the percentages would be calculated as follows:

$$\text{total retained tons from all AFA processors} \div \text{total retained tons from all processors}$$

The Council could also choose to use the historical TACs in the denominator rather than reported or retained catch. This formulation will tend to yield lower AFA percentages for species and areas where the total TAC was not harvested due, for example, to bycatch closures or a lack of markets. This formulation will yield higher AFA percentages if total reported catch was greater than the TAC, but will reduce AFA percentage if the TAC was not fully harvested. While this formulation is not reported for each option, the effects are demonstrated in Subsection 3.4.11 for Option 4. Under this formulation, the percentages would be calculated as follows:

$$\text{total reported tons from all AFA processors} \div \text{total historical TACs}$$

It should be noted that if the Council chooses to use total historical TACs in the denominator, it should be very careful to specify whether reported or retained catch is to be used in the numerator. While it may seem politically correct to use only retained catch in the numerator, doing so will perhaps unduly reward non-AFA processors for their own discards. This somewhat ironic outcome results from the fact that percentages by their nature sum to 100—if AFA processors do not get credit for their discarded tons, then Non-AFA processors will get that credit. A simple example will demonstrate the issue. Assume that the entire TAC of 10,000 tons was reported, and that total reported tons were split evenly between AFA and non-AFA processors. Further assume that both groups retained 4000 tons and discarded 1000 tons. If the AFA processing limit uses retained tons in the numerator and the total TAC in the denominator, then AFA processors would be limited to 40 percent of the TAC in the future, while non-AFA processors would be allowed to process at least 60 percent of the TAC. In effect, the non-AFA processors get credited with the discarded tons of the AFA processors and do not get penalized for their own discards.

There may be some confusion regarding the calculation of processing limits and on the implementation of processing limits. It is entirely feasible that the formula used to calculate processing limits and the formula used to implement processing limits are different. For example assume that the processing limits are calculated as the total reported tons by AFA entities from 1995 through 1997, divided by the total reported tons of all processors 1995 through 1997. The resulting percentage could then be applied to the TAC available for processing in 2001 or in 2002. In this case, NMFS would set an AFA apportionment equal to the TAC (after subtracting CDQ allocations) multiplied by the processing limit percentage. The result would be a limit of a fixed amount of tonnage for the current year. In other words, even though the TAC is not used in the calculation of the limit percentages, the current year TAC would be used in the calculation of tons that AFA processors would be allowed. Regardless of how the percentage is derived, implementation of that percentage would be based on the current TAC available.

7. Determine which years to include in processing history.

The AFA indicated that the historical average of the years 1995-1997 should be used to calculate processing limits. The Council can however choose to use processing history of more recent years if it chooses. The analysis estimates AFA processing limits for three sets of years as follows:

- 1995- 1997
- 1998-1999
- 1995-1999

8. Determine whether bycatch may be retained and processed after the processing limit for that species is attained.

If a processing limit for a species is reached, the processors affected by that limit, whether at the individual, sector, or overall level, could be prohibited from processing additional amounts of that species, even if delivered as bycatch. Alternatively National Marine Fisheries Service could employ a phased approach of imposing processing limits that would allow the processing of bycatch amounts of a limited species after a predetermined threshold is reached. An additional factor to consider is whether AFA processing limits will supersede retention requirements under Improved Retention and Improved Utilization (IRIU).

9. Determine the treatment of non-pollock processing histories of the nine removed catcher processors. (This decision is not necessary if catcher processors are excluded from the limits.)

The processing histories of the nine catcher processors listed in section 209 are treated differently depending on how the processing limit is configured. For an overall limit, the histories will be included in that overall limit. For sector limits, the histories are included in the offshore catcher processor limit. If individual limits are used, the histories will go to American Seafoods as a whole or be apportioned equally among its seven remaining catcher processors. Alternatively, the Council could choose to exclude the 9 ineligible vessels. This is considered a sub-option and is examined in subsection 3.4.13.3.

10. Determine whether to include processing history of the 20 AFA catcher processors in the GOA Groundfish processing limits. (This decision is not necessary if catcher processors are excluded from the limits.)

The GOA groundfish processing limits of the 20 catcher processors listed in section 208 of AFA are included in the overall, sector, or individual catcher processors' limits, depending on options chosen. However, the AFA prohibits those 20 vessels from processing any GOA pollock, any groundfish in GOA Area 630, or more than 10% of the Pacific cod in Areas 610, 620, and 640. Non-AFA catcher processors included within AFA companies or entities will be allowed to process up to whatever limits are established. In other words the Council could choose to keep catcher processors under the AFA processing limits, and insure that the processing facilities owned by AFA companies in the GOA do not get the benefit of the history that cannot be used by AFA eligible catcher processors.

11. Determine the treatment of non-pollock processing histories of facilities that qualify under §208(e)(21) and §208(f)(1)(B) of the AFA.

It appears that two processing facilities, the *Ocean Peace*, and the shore plant in Kodiak owned by International Seafoods of Alaska, would qualify under these sections. Discussions with members of industry indicated that references to these facilities in the AFA were included to allow these facilities to continue to process pollock in directed fisheries as part of the allocations in §206 of the AFA, but that it was not intended that they would be limited unless they participated in cooperatives. Because it is not anticipated that these facilities will participate in cooperatives, their processing histories have not been included as AFA (in the numerator) in the calculation of processing limits—the processing of these plants is included in the denominator of the calculations.

12. Determine the treatment of processing histories of AFA-eligible facilities that choose not to participate in cooperatives.

It is possible that some AFA eligible companies may choose not to participate in AFA cooperatives, in which case the Council may choose to remove them from the processing limit calculations. Currently all eligible processors have been issued AFA permits.

13. Determine whether processing limits are fixed or are adjusted to account for changes in ownership.

If a non-AFA processing company purchases an AFA-eligible facility the new owner becomes an AFA company. If the limits are intended to preclude AFA companies from expanding their processing in non-pollock species, then it stands to reason that the new owner's processing in its non-AFA plants would be added into the AFA processing total for that species.

The Council may also wish to address the question of how to treat the processing history of new facilities (relative to the historical period used in the limits) of potential buyers. Assume for example that the new processing plant on Adak, which began operating in 1999, is a success and its owners buy an AFA catcher processor in 2001. If the historical period for determining the AFA processing limits ends in 1997 then the processing history of the new Adak facility would not be included in the AFA limits, and the new owner of the AFA catcher processor would have to cut back its production at Adak in order to stay within the limits.

14. Determine whether processing are adjusted if AFA processors purchase non-AFA facilities after the date of final Council action.

It is possible that owners of AFA processors may purchase non-AFA facilities after the date of the Council's final action on AFA processing limits. The Council should indicate whether the processing histories of the newly purchased facilities are added into the calculation of limits. It should be noted that if the Council chooses to add these histories into the limits the potential effectiveness of the limits would be greatly reduced.

15. Determine the treatment of processing histories of vessels or plants that have been destroyed or replaced.

Since 1995, there have been several vessels or plants that have been destroyed or replaced. In some of those cases, catch and processing histories have been transferred to new owners who have built new vessels or

processing facilities to replace the old. It is possible that AFA companies or members of AFA entities own the catch and processing histories of some of the destroyed or replaced facilities. The analysis assumes that the catch and processing histories of such destroyed or replaced facilities will be included in the calculation of AFA processing limits.

The Council should also determine how they wish to handle processing histories of vessels or processing facilities that may be lost or destroyed after the date of final Council action.

16. Determine how to treat the processing totals of vessels that have been removed from U.S. documentation.

It is possible that some vessels that are no longer U.S.-documented fishing vessels (in addition to the nine vessels removed in the AFA) may contribute to the AFA processing limits. In some cases, the processing histories of those vessels may be sufficient to qualify replacement vessels under the LLP, and it is possible that the owners of those fishing histories have already built replacement vessels. Because of the difficulties of confirming current U.S. documentation of all vessels, the analysis includes the catch and processing of all vessels that participated in the fisheries between 1995 and 1997. If the Council chooses to exclude these vessels, then processing histories of all vessels that have given up their documentation should be removed from both the numerator and the denominator of the calculation for calculating limits. It should be noted that at least five vessels that are no longer documented are included in the calculation of the limits in the analysis. These vessels include the *Endurance* and four catcher processors that were at one time owned by American Seafoods.

17. Determine whether or not processing histories are transferable.

It is possible that an AFA processor may wish to consolidate its processing at a single facility rather than have it spread over several facilities. In this case, it may wish to sell the facility that it is no longer utilizing to a non-AFA processor and retain the applicable processing history so that the AFA processing limits remain unchanged.

18. Determine the annual process of defining AFA facilities, companies, and entities. (This decision is not necessary if limits are applied only to AFA facilities.)

The Council should indicate whether National Marine Fisheries Service should use the same methodology for defining the facilities that will be included under the AFA processing limits as it currently uses for the BSAI crab processing limits. The Council should use an alternative method if desired.

E1.2 Excessive Share Caps on Pollock

Chapter 4 examines an excessive share cap for pollock in the BSAI on AFA processors. The AFA directs the Council to establish a cap on AFA processors, as a means to ensure competition in the pollock fisheries. This chapter examines the goals and objectives of an excessive processing share cap for BSAI pollock, and examines the impacts of setting the cap at levels ranging from 10 percent to 30 percent. The examination also includes 3 sub-options:

- 1) apply the cap to AFA companies using a 50 percent ownership and control standard rather than to entities defined with a 10 percent ownership and control standard
- 2) include CDQ pollock within the excessive share cap
- 3) allow processors that exceed the cap in the past to continue at previous levels (a grandfather clause)

E1.2.1 Goals and Objectives of Excessive Processing Share Caps for Pollock

Language in the AFA implies that the goal of excessive share caps is to preserve competition in the fishing and processing industry of the BSAI. Market share has often been used as an indicator of markets that are less than competitive, and it is a very useful indicator. However, a disproportionate market share by itself does not always indicate that an anti-competitive situation exists. Barriers to entry into a particular market are perhaps a more

important factor in market control. With a high market share and barriers to entry, it is more likely that company will be able to influence prices paid for input such as raw fish, as well as prices paid for finished products to produce abnormally high profits.

The AFA erected significant barriers to entry into the pollock processing and harvesting markets. Therefore it appears reasonable to set policies that regulate how much of the pollock processing and harvesting markets individual firms or entities can control. Since there are several substitutes for pollock products in world market it is less likely that AFA processors will be able to significantly influence the prices of finished products. However, the supply of raw pollock is relatively localized, and therefore the effectiveness of excessive share caps on pollock are judged according to whether or not the cap increases or reduces the likelihood that a given processor will be able to influence the prices it pays for raw pollock.

E1.2.2 Impacts of Setting the Cap at Various Levels

The Council requested that an excessive share cap on pollock processing be examined at three levels: 10 percent, 20 percent and 30 percent. The Council has also stated that these levels represent a range and that the Council may choose any level between 10 and 30 percent. The effects of the cap at any given level depend on two factors:

- 1) How many entities would be constrained by the cap
- 2) How much would the constrained entities have to cut back production in order to stay within the cap

Table 2 shows the percentage point difference of the three cap levels and the percentage processed in 1999 by the AFA pollock entities as defined in Table 1. Entities are given a code to protect the confidential nature of the data. The code does not correspond to the order of the entities in Table 1. A plus sign (+) indicates how much the entity could increase its processing and still remain under the cap. A shaded cell with a minus sign (-) indicates that the entity exceeded the cap in 1999 and would have to reduce its processing by the amount shown to come under compliance of the cap. If the cap were set at 10 percent four entities would have to cut back their processing. With a 20 percent cap only one entity would have to cut back, and with a 30 percent no entity would be constrained.

Table 2. Cap Levels Compared to 1999 BSAI Pollock Processing Percentages

Entity #	Percentage Points Above (+) or Below (-) the Cap in 1999		
	10 percent cap	20 percent cap	30 percent cap
1	+6.6	+16.6	+26.6
2	-12.3	-2.3	+7.7
3	+7.8	+17.8	+27.8
4	+7.8	+17.8	+27.8
5	+0.6	+10.6	+20.6
6	+7.3	+17.3	+27.3
7	-8.0	+2.0	+12.0
8	+9.4	+19.4	+29.4
9	-6.8	+3.2	+13.2
10	-3.1	+6.9	+16.9
11	+6.7	+16.7	+26.7
12	+7.6	+17.6	+27.6

Notes:

- 1) Processing shares do not include CDQ pollock, which has been excluded from both the numerator and the denominator in the calculations.
- 2) Plus signs (+) indicate the percentage points the entity could gain and still remain under the cap.
- 3) Shaded cells with minus signs (-) show entities that were above the cap in 1999, and how many percentage points they would have to cut to be in compliance with the cap.

E1.2.3 Impacts on Competition of Excessive Share Caps

If the cap is set at a level that requires entities to scale back their processing, there could be impacts on competition particularly in the market for raw fish. The impacts will depend on malleability of the processing capacity of the particular entity. An entity that consist of a single pollock shorebased processing plant has much less malleable processing capacity than an entity that consists of several processing vessels. If an entity that consists of several vessels must cut back processing, it will likely to try to sell one or more of it vessels. If an entity consists of a single shorebased processing plant, then it is likely that the entity will be forced to reduce the throughput through its existing plant. The latter situation is more likely than the former to create a reduction in the price of raw fish.

The four large AFA shore plants in Dutch Harbor and Akutan averaged 10.2 percent of the non-CDQ pollock in 1999. Therefore, if the excessive share cap for AFA pollock processing was set at 10 percent, then even if each shore plant was the only pollock facility in an entity, at least some of those four would have to cut back on production, creating the potential for lower ex-vessel prices for raw fish.

If the cap were set at 20 percent, only one entity would be constrained. While the analysts cannot predict exactly how this entity would behave, it is likely that it would wish to divest itself of less efficient and more malleable processing capacity to get below the cap. Divestiture is probably less likely to create downside pressures on raw pollock prices. Furthermore if the caps are set at 20 percent it appears unlikely, given the average percentages of the large shore plants, that there would be additional aggregations of these facilities.

If the excessive share cap for BSAI pollock processing is set at 30 percent, none of the entities as they currently exist would have to cut back on processing. A 30 percent cap would, however, allow an entity to be formed consisting of three of the four larger shorebased processors without forcing the entity to dramatically cut back on throughput. If such an entity were formed, it is likely that at least 90 percent of the inshore pollock allocation would be processed within two AFA entities. This would tend to create downward pressures on ex-vessel prices.

For the catcher processor sector the issue of excessive share caps that allows existing entities to expand may be less of an issue than for entities that control motherships and shorebased plants. This is because in general catcher processors do not purchase raw fish from delivery vessels, and therefore localized competitive concerns are less likely.

In summary, the analysts conclude that if caps are set too low there is likely to be downward pressure on ex-vessel prices for pollock. If caps are set too high it is possible that the inshore pollock allocations could be controlled by as few as two entities—a situation that is also likely be put downward pressure on ex-vessel prices. Therefore the analysts would recommend a cap at or near levels of the leading processors.

E1.2.4 Impacts of Options to the Excessive Share Cap

Apply Caps to Companies Rather than to Entities: There does not appear to be any significant impact of setting a BSAI pollock processing excessive share cap on AFA companies rather than on AFA entities under the current ownership patterns. However, setting excessive share caps on companies rather than on entities would allow a greater level of concentration of ownership of pollock processing facilities in the future. This greater concentration of ownership might make it more likely that AFA processors would be able to act in non-competitive ways that might influence prices for delivered pollock or for finished products. Furthermore a consistent definition of ownership and control between excessive share caps and AFA processing limits will be easier to implement, monitor and enforce.

Inclusion of CDQ Processing within the Cap: If the excessive share cap includes CDQ processing of pollock then it is likely that incentives to form partnerships with CDQ organizations may be reduced, which could translate to fewer benefits coming to CDQ organizations.

Grandfather Clause: It does not appear that a grandfather clause that allows processors over the cap to continue to process at that level would negatively affect competition. However, it is recommended that if the Council

chooses to include a grandfather provision, they also specify the circumstances under which the grandfathered processors can continue to operate above the excessive share cap.

E1.2.5 Summary and Conclusions on BSAI Pollock Processing Excessive Share Cap

If a BSAI pollock processing excessive share cap is set too low there is likely to be downward pressure on ex-vessel prices for pollock. If a cap is set too high then it is possible that the inshore pollock allocations could be controlled by as few as two entities—a situation that is also likely to be put downward pressure on ex-vessel prices. Therefore the analysts would recommend a cap at or near those of the leading processors.

It does not appear that a grandfather clause that allows processors that exceed the cap in 1999 to continue to process at that level would negatively affect competition. However, the circumstances in which a processor is allowed to continue to operate above the cap should be specified.

If a BSAI pollock processing excessive share cap includes CDQ processing then it is likely that incentives to form partnerships with CDQ organizations may be reduced, particularly with processors that are at or near the cap. This could translate to fewer benefits coming to CDQ organizations.

There does not appear to be any significant impact of setting a BSAI pollock processing excessive share cap on AFA companies rather than on AFA entities under the current ownership patterns. However, setting excessive share caps on companies rather than on entities would allow a greater level of concentration of ownership of pollock processing facilities in the future. This greater concentration of ownership could make it more likely that AFA processors would be able to act in non-competitive ways that might influence prices for delivered prices for delivered pollock or for finished products. Furthermore a consistent definition of ownership and control between excessive share caps and AFA processing limits will be easier to implement, monitor and enforce.

E1.2.6 Decisions for the BSAI Pollock Excessive Share Cap

In order to develop a complete program for the BSAI pollock excessive share cap, the Council should address the following decision points.

- 1) Determine the level at which to set the BSAI pollock processing excessive share cap.

The Council has selected a range of alternative from 10 to 30 percent of the BSAI pollock TAC. The Council has indicated that they will consider any percentage within that range. Data for 1999 indicated that one AFA company processed approximately 23 percent of the BSAI pollock available for non-CDQ harvests.

- 2) Determine whether to apply the cap to AFA Companies using the 50 percent ownership and control standard, to AFA entities using the 10 percent ownership and control standard, or whether to use a different ownership and control standard.

Under current ownership patterns in the industry there would be no significant impact of using a 50 percent standard rather than a 10 percent standard—only the entity comprising the *Ocean Phoenix*, the *Arctic Storm*, and the *Arctic Fjord* would be directly affected, and this entity is currently well below all the but lowest cap levels.

- 3) Determine whether to include the processing of CDQ pollock within the cap

The analysts concluded that if CDQ processing is included under the BSAI pollock processing excessive share cap it could reduce the importance of CDQ pollock to AFA processors that would be near the level of the cap without CDQ processing.

- 4) Determine whether to require processors that exceeded the cap in the most recent year of processing to reduce their processing down to the level of the cap, or to allow them to continue to process at the level attained in the most recent year prior to the establishment of the cap—this is the commonly referred to as the excessive share cap grandfather clause.

- 5) Determine whether processors that are grandfathered in above the excessive share cap have a fixed limit or whether that limit is adjusted downward if processing in a future year represents a smaller percentage of the total than the grandfathered level. In other words, are grandfathered processors limited to the minimum of: 1) the percentage obtained in the most recent year, or 2) the level at which they were initially grandfathered?
- 6) Determine whether grandfathered processors may continue to process above the excessive share cap if they choose to consolidate their processing at fewer facilities than contributed to their initial level.
- 7) Determine whether grandfathered processors may continue to process above the excessive share cap if one of its BSAI pollock processing facilities is lost or destroyed, or should their grandfathered level be reduced by the amount processed by the lost facility.
- 8) Determine whether grandfathered processors may continue to process above the excessive share cap if they choose to sell a facility that contributed to their initial level, or should their grandfathered amount be reduced by the amount processed by the facility that was sold.
- 9) If CDQ processing of pollock is included under the excessive share cap (decision point 3), determine whether grandfathered processors that used CDQs to attain their initial level can continue to process at the grandfather percentage if they choose to reduce the amount of CDQ pollock they process.



ALASKA DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES

At the April 2000 NPFMC meeting, the Council posed a series of questions to the department regarding the AFA processing caps and their impact on the 2000 snow crab fishery. The following are a synopsis of the department's response to these questions.

1. Was the waiting time for vessels to offload in 2000 different than 1999 or 1998 when no processing caps were in place?

At the conclusion of the 2000 snow crab fishery, both floating processors (FP) and shoreside processing plants (Shore) experienced increased processing time. The below table indicates number of days by processing type.

<u>YEAR</u>	<u>NUMBER OF DAYS PROCESSING</u>		
	<u>AFTER</u>	<u>FISHERY</u>	<u>CLOSURE</u>
	CP	FP	SHORE
1998	1	8	6
1999	5	3	4
2000	4	14	10 (Dutch)

2. Was the percentage of crab deadloss substantially different in 2000 verses the five previous years when no processing caps were in place?

It appears from the table below that the percentage of deadloss in the 2000 open access snow crab fishery was not significantly different than values observed in the period 1995-1999.

<u>YEAR</u>	<u>DEADLOSS (lbs.)</u>	<u>PERCENT OF OPEN ACCESS HARVEST</u>
1995	1,287,196	1.7
1996	1,333,014	2.0
1997	2,351,555	2.0
1998	2,893,945	1.2
1999	1,828,313	1.0
2000 (preliminary)	310,656	1.0

3. Was the percentage of crab going to locations requiring check-out (Kodiak, Adak, etc.) different during the 2000 fishery when AFA processing caps were in place verses 1999 and 1998 when no processing caps were in place?

As shown in the table below, the number of vessels which delivered outside the standard ports was higher in 2000 than in the prior two years. While this increase may have been driven in part due to higher prices offered in Kodiak, the price differential offered in Kodiak over Dutch Harbor in 1998 and 1999, 19.6% and 28.4% respectively, was greater than the differential offered in Kodiak over Dutch Harbor in 2000 (+8.1%). For this reason, there may be other extenuating reasons that caused the percentage to increase.

<u>YEAR</u>	<u>NUMBER OF VESSELS CHECKING OUT TO</u>		<u>EXVESSEL PRICE PAID TO FISHERS*</u>		<u>PRICE DIFFERENTIAL OVER DUTCH</u>
	<u>KODIAK</u>	<u>ADAK</u>	<u>KODIAK</u>	<u>ADAK DUTCH</u>	
1998	6	0	\$0.67	--	\$0.56 19.6%
1999	2	0	\$1.13	--	\$0.88 28.4%
2000	12	1	\$2.00	\$2.05	\$1.85 8.1%

*price for number 1 bright shell crabs.

More vessels delivering to Kodiak in 2000 may have been partially driven by the fact that vessels were carrying their entire seasons catch, so any price differential would have been applied to their entire seasons harvest. Also, the closure of the Bering

Sea/Aleutian Islands fixed gear Pacific cod fishery, several weeks prior to the start of the 2000 snow crab fishery, may have resulted in fewer fishery opportunities available for some vessels after the snow crab fishery closed.

4. Why did some processors choose not to operate, or not operate at certain locations, in the 2000 snow crab season?

Processor decisions regarding which plants and/or how many crews to operate were probably based largely on economics. AFA processor caps likely had economic impacts on all processors participating in the 2000 snow crab fishery. Of equal importance, however was the relatively small guideline harvest level (GHL) of the 2000 fishery. Even in the absence of any type of processing caps, processors were facing dramatic reductions in the quantity of crabs available for processing in 2000, consequently decisions on operations would have most certainly been, in part, driven by the small GHL available in 2000.

5. What was the price per pound in 2000, verses 1999 and 1998? See question # 3.

In addition to these questions, the department noted a number of issues that arose in conjunction with the AFA caps in the 2000 Snow crab fishery. The department was able to address these through inseason adjustment authority. These were:

- Adjustment to processor caps based on harvest exceeding GHL and ADF&G's limitations in providing an accurate harvest revision in a timely manner to be of value to processors seeking to process their percentage of any harvest over the GHL.

Current AFA regulations allow certain processors a percentage of the harvest, including any harvest in excess of the GHL. Due to significant penalties established for processors exceeding their cap percentage, processors need to know the exact amount of the overage when determining how much they can exceed their original allocation, which is based on the preseason GHL.

Immediately after the close of the 2000 snow crab fishery, representatives from most processors began calling the ADF&G office in Dutch Harbor requesting a solid estimate of the actual harvest. Several processors were frustrated that actual harvest, based on processor's actual production reports, would not be available in time to allow processors to accurately adjust processing to the amount actually harvested. Information on the actual (not projected) harvest was not available to ADF&G until April 24, when processors' production reports for the week ending April 22 were due and submitted to the department. Current data collection procedures do not provide

for a definitive catch estimation of the GHIL to alter crab caps inseason (most harvest is still on vessels at sea or waiting to be offloaded).

- Inability of vessels waiting to offload to comply with 10-day interim wet gear storage regulations; and how it could affect the CDQ vessels.

In 2000, 16 vessels contacted the department and indicated that, due to a late offload, they would be unable to clear their gear from the fishing grounds in the 10 days immediately following the closure as allowed by regulation. In 1999, processing did not extend beyond 10 days following the closure, however due to extremely bad weather at the time of the closure, the department issued an exemption to the 10-day rule. In 1998, processing was concluded within 8 days of the fishery closure. No vessels reported having difficulty clearing the grounds within the 10 days following the closure.

Several vessels planning to participate in the 2000 Community Development Quota fishery, which were not offloaded until April 17, were given a waiver of observer coverage to return to the fishing grounds to convert their open access gear to CDQ gear to avoid violation of the 10-day post-fishery gear storage regulations.

- Current ADF&G policy provides opportunity to reduce deadloss from excessive processing wait times. Additionally, it provides for vessel movement as a result of processors reaching their AFA caps.

Under current landing restrictions, a vessel which has participated in the Bering Sea snow crab fishery may not freely move between ports or processors with crabs on board after a specified period not exceeding 72 hours following the fishery closure.

Prior to the 2000 season, industry representatives voiced concern that vessels, delivering to AFA processors which reached their cap, would be unable to move to another port or processing location. Also of concern was anticipated wait times longer than normal at non AFA processors, as AFA processors reached their caps and ceased processing.

As a result of these concerns, ADF&G developed policy which allowed vessels, unable to deliver because their processor reached an AFA cap, or vessels which were beginning to experiencing abnormally high deadloss problems due to long wait times, to move to a new port and or processing location. Under this policy, vessel movements were coordinated by the department and check-out and check-in with a department representative was required. ADF&G records indicate 3 vessels requested and were granted permission to move to another processor. In all cases, the original processor had reached their AFA cap.

In summary, crab fisheries are managed based on inseason information to achieve the pre-season guideline harvest level. However, the department does not have the tools

necessary to accurately manage the fleet to achieve the GHL target. Although harvest may be close to the GHL, in some years the GHL may be over or under by a substantial amount.

**The Honorable Ted Stevens
The Honorable Slade Gorton
The Honorable Frank H. Murkowski
The Honorable Patty Murray
The Honorable Don Young
Richard D. Lauber, Chairman NPFMC**

RECEIVED

MAY 25 2000

N.P.F.M.C

Dear Sirs and Madam:

Attached is a letter signed by the owners and skippers of 80 crab boats. We all urge that the cap on any processors' ability to buy our crab be completely eliminated before the Red King crab season. These processing caps have seriously harmed the Bering Sea crab fleet already. They need to be removed.

Respectfully submitted,

Representatives of the following vessels

**Advancer
Adventure
Alaska Trojan
Aldebran
Aleutian Beauty**

**Autumn Dawn
Aleutian Lady
American Viking
Amatuli
Arctic Eagle**

Arctic Mariner
Auriga
Ballyhoo
Barbara J
Blue Aleutian

Blue Dutch
Blue Fin
Celtic
Commodore
Confidence

Constellation
Centaurus
Deception
Defender
Diligence

Denali
Determined
Destination
Endurance
Entrance Point

Farwest Leader
Golden Dawn
Karin Lynn
Keta
Kiska Sea

Kodiak
Kodiak Queen
Lady Ann
Lady Joanne
McKinley

Marshovic
North Command
Northern Mariner
Northwestern
Northwind

Nordic Fury
Notorious
Obsession
Ocean Cape
Ocean Fury

Pacific Fury
Pacific Mariner
Polar Sea
Polar Lady
Polestar

Poseidon
Ramblin Rose
Raven
Reliance
Royal Atlantic

Royal Viking
Saga
Scandies Rose
Seabrooke
Sea Ern

Sea Venture
Sea Fisher
Sea Venture
Sharman
Siberian Sea

Silver Dolphin
Silent Lady
Silver Spray
Swell Rider
Tempest

Time Bandit
Theresa Marie
Viking Queen
Valiant
Wizard



F/V ALEUTIAN LADY

April 28, 2000

The Honorable Ted Stevens

The Honorable Slade Gorton

The Honorable Frank H. Murkowski

The Honorable Patty Murray

The Honorable Don Young

Re: Crab Processing Caps

Dear Senators and Congressman:

We are boat owners and skippers in the Bering Sea crab fleet writing to urge you to eliminate the American Fishery Act's crab processing caps. These caps have already hurt the crab fleet during the Opilio crab fishery and must be removed before the Red King crab season.

How can we be expected to receive a fair price if long-standing, major Bering Sea crab processors are prohibited from fully using their existing processing capacity? The AFA had nothing to do with the current crab processing investments. We were outraged to see large processing plants lie idle when they should be competing to buy our crab.

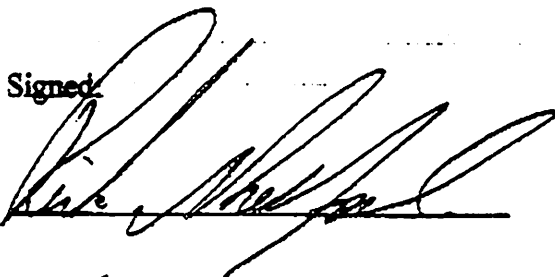
Boats had to scramble to find other markets as AFA processors reached their caps. Some of our boats had to get special permission from the Alaska Department of Fish & Game to move from one port to another, only to get at the end of the line for delivery to a non-AFA processor. We were just lucky that the dead loss was not worse this year and that there were no accidents as boats moved around from one area of the Bering Sea to another, looking for a processor that could buy its crab.



Crab are managed by a "guideline harvest" and not on an exact quota. AFA processors are capped at a percent of the actual harvest, but no one knows what the actual harvest of crab will be until after all the crab have been processed. This year the actual harvest of Opilio crab looks like it exceeded the guideline harvest level. Not knowing what the actual harvest would be, AFA markets could not even process their cap percentage without risking going over their cap number. It is ridiculous that a crab processor does not even know whether it can legally buy your crab!

The Bering Sea crab fleet is suffering already because of reduced quotas and there are efforts underway to develop buy-back proposals and rationalization programs to make the industry more economical. But those efforts will take time. The AFA crab caps have had the unintended consequence of decreasing the demand by processors to buy our catch. Removing the crab caps is one thing Congress can do immediately to help the fleet. We urge you to eliminate these caps before the November Red King crab season.

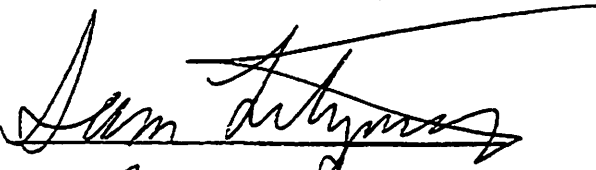
Signed:


Rick Muel


FV ALEUTIAN LADY


Reef Nordlo

FV Scandis Rose


Sam Johnson

FV Rodrak Queen


John St. Hall

FV KETA


David R. A.

FV Silent Lady


Kim

FV BLUE DUTCH

Crab Caps

ADDITIONAL SIGNATURE PAGES
ON FILE IN NPFMC OFFICE

June 5, 2000

RECEIVED

MAY 26 2000

Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue
Anchorage, AK 99501-2252

N.P.F.M.C

RE: Agenda Item C-3, Crab Processing Caps

Dear Rick,

I am writing the Council in support of the status quo for crab processing caps. I manage three vessels that deliver to a non-AFA processor. The American Fisheries Act created stability and increased margins for the pollock qualified processors. These benefits could be used against the smaller independent non-AFA crab processors, who may find it difficult to compete against the larger AFA processors who do not necessarily need crab to survive. The crab processing caps were negotiated by the AFA and non-AFA processors to find a fair compromise that would balance power between the two groups of processors. By changing the basis years for the crab processing caps, the negotiated compromise is changed, and the balance of power between AFA and non-AFA processors changes.

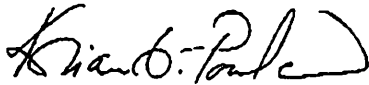
I do support changing the crab processing caps to be managed on the aggregate level, instead of the current company by company level. Managing on the aggregate level will result in a reduction of potential delivery problems for harvesters, as no AFA processors would be capped until the aggregate cap is reached.

A major concern raised regarding crab processing caps prior to the 2000 opilio season was a fear of deadloss from vessels holding crab for extended periods. Deadloss was not a problem during the 2000 opilio season in which caps were in place. Our three vessels were the last vessels to deliver in Dutch Harbor, and experienced no greater deadloss than normal. The amount of time it took for all harvested crab to be processed was not unexpected. Within approximately 10 days, all crab in Dutch Harbor had been processed. As a comparison, during the 1999 Bristol Bay red king crab season, it took 6 days for all crab in Dutch Harbor to be processed during a similar one trip fishery with only about 1/3 of the crab harvested.

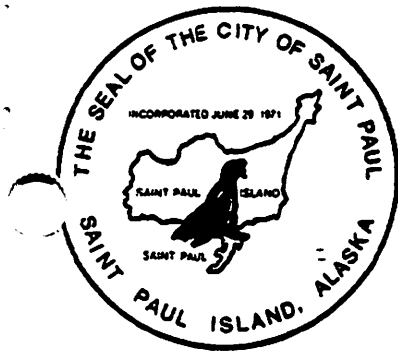
The caps also created incentives for better price negotiations, as three additional non-AFA markets began processing, which would not have otherwise. Two of these three had never processed crab in substantial quantities before.

I would also like to point out to the Council that during the October 1999 Council meeting, there was substantial support for processing caps from harvesters. There are many harvesters, like myself, who have substantial fears that our crab market could be forced out of business by the larger and much more powerful AFA processors, if the caps are not maintained as the status quo.

Sincerely,



Kris Poulsen



CITY OF SAINT PAUL

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MAY 30 2000
N.P.F.M.C

May 26, 2000

Mr. Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Ave., Suite 306
Anchorage, AK 99501-2252

Re: Agenda Item C-3, American Fisheries Act – Crab Sideboards

Dear Chairman Lauber:

At the April hearings of the North Pacific Fisheries Management Council (the Council), I presented testimony on behalf of the community of St. Paul concerning the economic crisis caused by the significant declines in the stocks of opilio and other crab species in the Bering Sea. I also spoke of the unintended impacts caused by the American Fisheries Act (AFA) crab processing sideboards on my community. Subsequently, various members of the Council requested that I provide further testimony on this issue at the June hearings in Portland.

The sideboards or caps created by Section 211(c)(2)(A) of the AFA forced shoreside processors on St. Paul such as Icicle and Trident to limit the deliveries from crab vessels in order to remain AFA compliant. Moreover, given the reduced opilio GHIL and other economic considerations, Unisea made a decision to close the third shore-based plant that it operates on the island. In addition, since the season was expected to be short and the GHIL was low, fewer floating processors (AFA and non-AFA) came to the Pribilofs than in previous seasons.

As a result, the crab harvesters faced a sharp reduction in delivery options. This led many to experience delays of up to a week after the season had closed while waiting to deliver crab to the non-AFA processors. These delays contributed to deadloss and other problems that further reduced the value of the harvested crab. Meanwhile the two operating shore-based processors remained idle after they had reached their crab processing caps. The bottomline is that, but for the sideboards, larger amounts of crab could have been processed on St. Paul, generating additional fish and sales tax revenues in the process.

Given the already difficult situation caused by an 85% reduction in the opilio crab GHIL, communities such as St. Paul and the crab fishermen ended up paying a steep price. Figures compiled by the City of Saint Paul Finance Office for the 2000 season indicate

that in relation to previous seasons, there was a decline in revenues commensurate to the reduction in the opilio GHL. Although this was partly offset by higher prices per pound, there is no question that City's dramatic decline in revenues was aggravated by the impact of the sideboards on the shoreside processors.

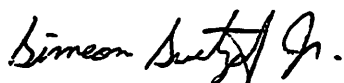
The intent of the sideboards was to protect non-AFA processors in non-pollock fisheries. While this may be a legitimate objective, communities, crab harvesters, and the resource itself should not have to suffer the consequences. In this regard, Section 211 of the AFA states that the "North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including the processors, from adverse impacts caused by this Act (emphasis added)..."

In addition, National Standard #8 (Section 106(b)(8)) of the Magnuson-Stevens Act indicates that "[c]onservation and management measures shall ... take into account the importance of fishery resources to fishing communities in order to (A) provide sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities (emphasis added)."

The AFA and the Magnuson-Stevens Act, therefore, grant the Council authority to recommend measures to protect communities such as St. Paul and the crab harvesters, as participants in the opilio fishery, from the adverse impacts caused by the sideboards. While various mechanisms have been proposed to achieve this, St. Paul's primary concern is to maximize the fish and sales tax revenues generated by the crab industry in a fishery that is expected to be low or non-existent during the next few years.

Affected communities and the crab industry are in the process of developing programs to be funded by the Secretary of Commerce and Congress, under Section 312(a) of the Magnuson-Stevens Act, in response to the commercial fishery failure in the opilio crab fishery. It is critical, therefore, that existing fisheries legislation does not compound the current economic crisis by further contributing to the reduction of needed fish and sales tax revenues to the affected communities.

Sincerely,



Simeon Swetzof, Jr., Mayor

Cc: City Councilmembers
City files

~~UJ DONALDSON~~
~~11/16~~
 NPFMC
 Staff

Opilio processing information from the 1995-2000 fisheries

YEAR	Pounds			Percent	
	AFA	Non-AFA	Grand Total	AFA	Non-AFA
95	53,916,160	43,163,728	97,079,888	56%	44%
96	52,308,561	39,293,781	91,602,342	57%	43%
97	85,548,240	57,248,044	142,796,284	60%	40%
98	193,431,915	83,418,944	276,850,859	70%	30%
99	130,296,465	57,713,224	188,009,689	69%	31%
00	16,775,717	13,614,701	30,390,418	55%	45%
95-97 avg.	191,772,961	139,705,553	331,478,514	58%	42%

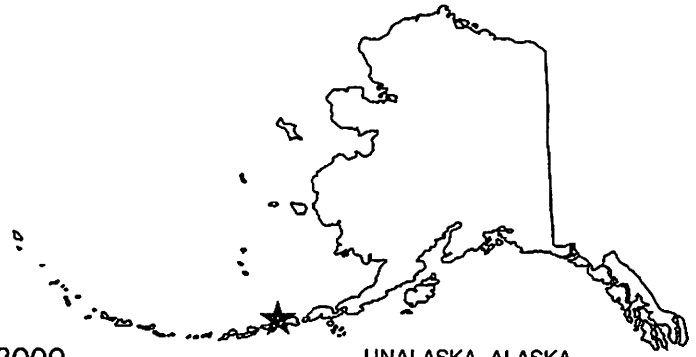
NMFS Sideboard estimate based on 1995-97

58.15%

Source: ADF&G Fish ticket data

CITY OF UNALASKA

P.O. BOX 610
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(907) 581-1251 FAX (907) 581-1417



May 30, 2000

UNALASKA, ALASKA

Richard Lauber, Chair
North Pacific Fisheries Management Council
605 West 4th Ave., Suite 306
Anchorage, Alaska 99501-2252

Subject: C-3 AFA Processor Crab Caps

Dear Chairman Lauber,

I'm writing in opposition of the continuation of AFA processor crab caps. The City of Unalaska feels that the caps, as they were implemented during the 2000 Opilio tanner crab fishery, hurt our local economy, the four AFA processors of our community, the vessels that fish for these operations and our local support sector businesses.

We were led to believe that the action taken by the NPFMC during the October meeting in Seattle was to institute caps as an aggregate between the AFA companies to ensure the harvest of 58% of the Opilio quota. As you are aware, that is not what was implemented. This was due to the fact that the National Marine Fisheries Service did not have the time or staff to implement an aggregate system, due to the huge work load they had on other AFA issues.

What were put in place were individual company caps based on the company's processing history from 1995 to 1997. This led to many problems during the 2000 Opilio season. In Unalaska, many of the AFA processing plants had to tell some of their vessels, that had fished for them for many years, that they didn't have room under the individual cap system to take their crab. Many of these vessels had to scramble to find other markets at non AFA companies. This led to long waiting periods to get unloaded for some vessels and concerns about dead loss.


Also, we saw a major problem at the end of the season with the crab cap system; ADF&G went over the quota of 26.3 million pounds during the season to 30.7 million pound harvested amount. The problem is that no one knows for sure what the true harvest level is until Fish and Game has collected all fish tickets after everyone was done processing. This puts the AFA capped companies at a major disadvantage to harvest their individual company cap. This year, the AFA companies hired Dr. Scott Matulich, an Economics Professor from Washington State University, to track individual AFA companies catches so they could get as close as possible to their cap amount without going over. I'm sure that many AFA companies didn't get their total quota amount because of the concern of not knowing what the harvest amount was actually going to come in at and they didn't want to have to deal with NMFS enforcement on a cap violation. This seems a very poor way to manage a fishery; it costs AFA plants in Unalaska the opportunity to process more crab, and the City Unalaska and its local support sector businesses additional revenue.

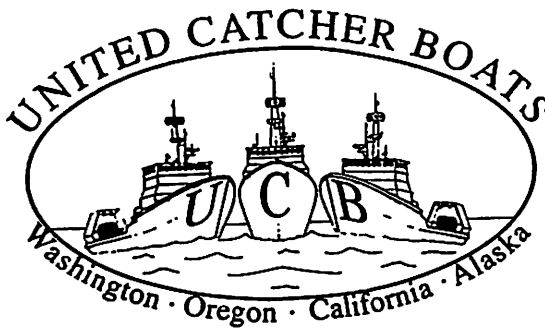
Richard Lauber, Chair
NPFMC
Page 2

Our community was impacted because many of the vessels that lost their markets in Unalaska sold their product to operations in other communities or to floating processors on the fishing grounds. This had a major impact on the four AFA plants in our community; this loss of product, in addition to a small quota, hurt their operations badly. Unalaska does have one non AFA processing plant that did get deliveries from some of the vessels that lost their markets locally and that helped the revenues to our community. But we still believe our local and State fish and sales tax revenue, and our support sector business were impacted negatively by the individual plant crab caps. This is especially true when you have a short one trip season as this year's Opilio season was. In the past, this kind of season would have brought many more crab deliveries to Unalaska.

In conclusion, we believe the processor crab caps should be removed. The caps will continue to hurt the AFA processing plants and vessels that fish for these operations in our community. They will also have a negative impact to our support sector businesses and revenues to the City of Unalaska.

Sincerely,


Frank Kelty
Mayor



Brent C. Paine
Executive Director

Steve E. Hughes
Technical Director

Jeffrey R. Pike
Washington D.C. Representative

June 2, 2000

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

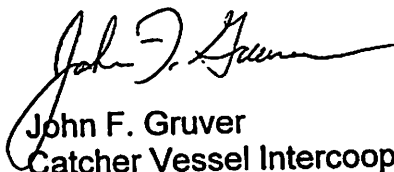
Dear Chairman Lauber:

As you will recall, the BSAI cod sideboard and, consequently the distribution of that sideboard among coops, was limited to a single year, 1997. The Catcher Vessel Intercoop recognized, in the interest of fairness, that any sideboard allocation among coops should recognize history beyond a single year. To that end, I wish to inform you the Intercoop has unanimously agreed to an allocation method that accomplishes this goal.

The Intercoop has struggled over this issue for several months. Achieving unanimous consent on such a complex issue was difficult. However, we were able to agree to an allocation formula that is based on multiple years of catch history and a fair method. Furthermore, this action emphasizes the commitment catcher vessel coops have made towards limiting the cod harvest by non-exempt cod vessels to the Council recommended sideboard cap.

Therefore, I request the Council to not take any further action regarding the allocation of catcher vessel BSAI cod sideboards.

Sincerely,



John F. Gruver
Catcher Vessel Intercoop Manager

ELIZABETH F., INC.

P.O. BOX 1273

2705 MILL HAY ROAD

KODIAK, ALASKA 99615

June 1, 2000

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

Re: Request for change in the calculation of Bering Sea P. cod shares for AFA vessels
Agenda Item C-3 (d)

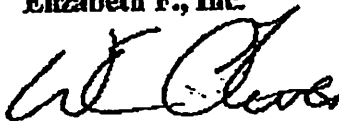
Dear Chairman Lauber:

On April 5, 2000 Michael R. Martin, president of Elizabeth F., Inc., wrote you to request that the Council review the criteria used to establish the P. cod sideboard limits set for AFA vessels. As you may recall, Mr. Martin was concerned about the fairness of the current sideboard allocation method, and wanted the Council to analyze an option requiring coops to allocate sideboard opportunity on the best two out of three years.

I am pleased to report that an inter-coop agreement was signed today that addresses Elizabeth F., Inc's concerns, and establishes a much more equitable cod sideboard allocation for the future. Because of this happy turn of events, Elizabeth F., Inc. withdraws its request for Council action on this matter.

We appreciate your attention to our concerns, and wish you good fishing.

Very Truly Yours,
Elizabeth F., Inc.



W. E. Oliver
Vice President

cc: John Gruver



June 2, 2000

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

Re: AFA Allocation of Pacific Cod Sideboards

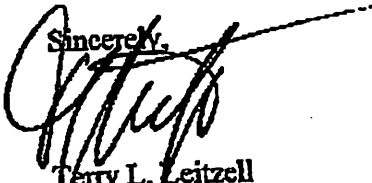
Dear Mr. Chairman:

I wrote to you in April to request that the matter of the base years for the determination of the Pacific cod sideboard allocation to AFA catcher vessels be placed on the agenda for action at the June 2000 Council meeting. At that time, the Intercoop Group had failed to reach agreement on a more fair method of allocating the Pacific cod sideboard cap among the coops.

However, over the past two weeks, the Intercoop Group has met several times and has reached agreement on a new allocation method. The new approach has been agreed by all coops and was signed on June 1, 2000. Consequently, I request that the Council remove this item from the agenda.

I am pleased that the Intercoop Group managed to achieve this consensus and to remove the burden from the Council of having to take further action.

Sincerely,



Terry L. Leitzell
General Counsel

ICICLE SEAFOODS, INC.

4019-21st Avenue West • Seattle, WA 98199
P.O. Box 79003 • Seattle, WA 98119 • Tel: 206-282-0988 • Fax: 206-282-7222



Fishermen's Finest, Inc.

4039 21st Ave. W. #201 ■ Seattle, WA 98199
TEL: (206) 283-1137 ■ FAX: (206) 281-8681

June 8, 2000

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

**RE: American Fisheries Act Implementation – Processor Sideboards
Agenda Item C-3**

Dear Chairman Lauber:

In Senator Steven's floor speech before Congress, on October 21, 1998, he stated that the Bering Sea pollock fishery's "state of over capacity is the result of mistakes in, and misinterpretations of the 1987 *Commercial Fishing Industry Vessel Anti-Reflagging Act*." We sincerely hope that the same situation does not happen because of either misinterpretations, or omission, of the processing sideboard provision of the *American Fisheries Act*.

Fishermen's Finest, Inc. operates two H&G catcher processors: the *American No. 1* and the *U.S. Intrepid*. The implementation of the *American Fisheries Act* resulted in permanent and significant loss of pollock earnings to our company and crew. We are unable to recoup these losses.

Under the open access system, none of our vessels can increase effort in certain fisheries while at the same time maintaining historical level of effort in other fisheries. For example, we cannot stack the rock sole that we caught with both vessels and give it all to the *American No. 1* so that the *U.S. Intrepid* can pursue pollock during 'A' season. Nor can we catch both vessels' historical share of rockfish with the *U.S. Intrepid*, so that the *American No. 1* can do flathead instead. The open access system under which we operate does not allow for 'double dipping'.

Sideboard Implementation

Sideboards must be in place for all groundfish species, regardless of whether DAP meets TAC.
Sideboards must be based on traditional processing levels. For example, flatfish species with TACs that are never fully harvested must have sideboard limits implemented. These so called 'under-utilized' species in the Bering Sea are left unharvested for two main reasons: psc bycatch-driven management regimes that prevent full-utilization of the target species, or poor market

conditions. Any increase in effort over traditional processing levels is going to negatively impact the only markets that we have left.

We still strongly believe that the non-pollock groundfish harvesting and processing history of the nine retired catcher-processors should not have been given to the 20 remaining catcher-processors. Almost all of the nine retired vessels were fillet boats that targeted on cod and yellowfin sole after the pollock seasons. We do not see that surimi vessels which did not earn this history should have access to this non-pollock groundfish. It is inconsistent to preclude participation of vessels that had true history in pollock while at the same time awarding non-pollock groundfish to processors or catcher-processors that did not historically harvest and process those species. In effect, the at-sea processors have already received greater than their historical share of non-pollock groundfish by having the groundfish from the retired fillet boats.

Summary

As one company out of many that has been excluded from harvesting and processing the most valuable fishery in the North Pacific, we could feel quite justified in asking the Council to simply ban the *AFA* processors from processing any non-pollock groundfish. By taking the management of this \$600-\$700 million resource out of the public process, we do not see why that sector should even have access to other fisheries. Obviously it is too late to change that and we need to work with the process as it stands now. To this we say, if the processors really want a piece of the yellowfin, we'll give them all they want - in exchange for renewed access to pollock.

Until this is granted, we are simply asking that that their processing is preserved at traditional levels.

In summary, we urge the Council to implement processing sideboards that will maintain the integrity and health of the non-pollock groundfish markets, and fulfil the intent of the *American Fisheries Act*. The architects of the *AFA*, who gave us this vision of industry voluntarily rationalizing effort in a fishery, should understand what leads to over-capitalization. We trust that these same visionaries would see that by not applying processing sideboards they would be creating the same type of overcapitalization of non-pollock groundfish that drove them to Congress in the first place.

Thank you Mr. Chairman and Councilmembers.

Sincerely,


Rudy A. Petersen

F/V American No. 1 F/V Pathfinder
F/V U.S. Intrepid F/V U.S. Liberator