

Initial Review Draft

**Regulatory Impact Review/Environmental Assessment/Initial
Regulatory Flexibility Analysis for a Regulatory Amendment**

to

Establish Aleutian Islands Pacific Cod Processing Sideboards

December 2009

North Pacific Fishery Management Council
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COMMON DEFINITIONS

The following list provides definitions for a list of selected words or phrases used in the analysis:

- An **LLP license** is a permit issued under the License Limitation Program. It is held by a person, not by a vessel. A license may be held that is not assigned to a vessel, but before the license can be used in a fishery, the vessel upon which the license will be fished must be named. Once a license is assigned to a vessel of appropriate size to engage in directed fishing in accordance with the endorsements of the LLP, the license holder is authorized to deploy that vessel, and the license must be physically on board the vessel when it is engaged in activities authorized by the license.
- An **AFA LLP** is a permit initially issued by NMFS to qualified AFA catcher vessels and processor vessels. An AFA vessel must be named on a valid LLP permit authorizing that vessel to engage in trawling for pollock in the Bering Sea subarea. AFA LLPs can be transferred to another AFA vessel, however, may not be used on a non-AFA CV or a non-AFA CP (§679.4(k)(9)(iii)(3)).
- **AFA catcher vessel (CV)** means a catcher vessel permitted to harvest Bering Sea pollock under (§679.4(1)(3)).
- **AFA catcher/processor (CP)** means a catcher processor permitted to harvest Bering Sea pollock under (§679.4(1)(2)).
- **AFA mothership** means a mothership permitted to process Bering Sea pollock under § 679.4(1)(5).
- **Amendment 80 sector** means: (1) Those Amendment 80 QS holders who own Amendment 80 vessels and hold Amendment 80 LLP licenses; or (2) Those persons who hold Amendment 80 LLP/QS licenses (50 CFR 679.2).
- **Area Endorsements.** Each license carries one or more area endorsements authorizing entry into fisheries in those areas (e.g., Bering Sea, Aleutian Islands).
- **Catcher/processor (CP)** means, with respect to groundfish recordkeeping and reporting, a vessel that is used for catching fish and processing that fish.
- **Catcher vessel (CV)** means a vessel that is used for catching fish and that does not process fish on board.
- **Central Aleutian Islands** means that part of the Aleutian Islands Subarea contained in Statistical Area 542.
- **Eastern Aleutian Islands** means that part of the Aleutian Islands Subarea contained in Statistical Area 541.
- **Gear Designation.** Each license carries a gear designation (e.g., trawl and/or non-trawl) authorizing its entry in fisheries with the designated gear.
- **MLOA designation.** Each license carries a maximum length overall (LOA) designation, limiting the length of the vessel that may use the license.
- **Mothership.** A vessel that receives and processes groundfish from other vessels (50 CFR 679.2).
- **Non-severability.** The endorsements and designations of a license are non-severable and only transfer with the license.
- **Non-trawl.** A license was assigned a non-trawl gear designation only if non-trawl gear was used to harvest LLP species from the qualifying fishery during the period beginning June 17, 1995 through January 1, 1998 (§679(k)(3)(iv)(D)).
- **Stationary floating processor.** A vessel of the U.S. operating as a processor in Alaska State waters that remains anchored or otherwise remains stationary in a single geographic location while receiving or processing groundfish harvested in the GOA or BSAI (50 CFR 679.2).
- **Trawl/non-trawl.** A license was assigned both a trawl and non-trawl gear designation if only both gear types were used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988 through June 17, 1995 (§679(k)(3)(iv)(B)).
- **Trawl.** A license was assigned a trawl gear designation only if trawl gear was used to harvest LLP species from the qualifying during the period beginning January 1, 1988 through June 17, 1995 (§679(k)(3)(iv)(C)).

Disclaimer on harvest data used in this report

The tables and information presented in this analysis estimate (retained catch) history associated with processing vessels that have received catcher vessel Pacific cod harvested in the Eastern and Central Aleutian Islands. ADF&G fish tickets are used for Pacific cod harvest data because processors are identified on nearly all fish ticket records. The NMFS Blend data identifies the catcher processor sector (mothership or shoreside) of all processors, but is missing some data on the individual processing vessel or facility. Fish ticket data prior to 2001 is supplemented with Blend mothership data, because motherships were not required to fill out fish tickets until 2000. When Blend mothership data is used to supplement fish ticket data, the individual processing vessel information was researched to ensure that landings were assigned to the correct sector for purposes of this action. The NMFS catch accounting database data is used when total Pacific cod catch (retained and discarded) is necessary, and this is noted. 2009 data are also from the NMFS catch accounting database, as ADF&G fishticket data were not available.

EXECUTIVE SUMMARY

This Regulatory Impact Review (RIR) was prepared to meet the requirements of Presidential Executive Order 12866 for an evaluation of the benefits and costs, and of the significance, of a proposed Federal regulatory action. Analysts have also drafted an environmental assessment (EA) and initial regulatory flexibility analysis (IRFA) to comply with the National Environmental Policy Act and the Regulatory Flexibility Act, respectively. The IRFA will be revised upon selection of a preferred alternative by the North Pacific Fishery Management Council (Council), in order to reflect the potential adverse economic effects of the proposed action on directly regulated small entities.

The Council is considering amending Federal regulations to establish a sideboard for processing vessels that receive catcher vessel deliveries of Pacific cod harvested in the Eastern and Central Aleutian Islands (Areas 541 and 542, respectively). Specifically, the action proposes to limit the amount of catcher vessel Pacific cod harvest in Areas 541 and 542 that can be processed by a processing vessel (catcher processor, floating processor, or mothership) that is part of an identified rationalization program. These rationalization programs include the American Fisheries Act, BSAI crab rationalization, and BSAI Amendment 80. A sideboard is a collective limit for all vessels subject to the sideboard; it does not represent a guaranteed allocation. The action would essentially limit the amount of catcher vessel harvests of Pacific cod that could be processed by catcher processors, floating processors, and motherships that participate in a rationalization program with a processing element.

The Council adopted a problem statement and additional statements regarding the affected area and sectors in June 2008, and made minor amendments at the December 2008 Council meeting. Generally, the problem statement notes that recent rationalization programs provide benefits to processing vessels participating in these programs and afford opportunities for consolidation, thus freeing some processing capacity to target the non-rationalized BSAI Pacific cod catcher vessel fishery. This is one of the few remaining primary fisheries in the BSAI that is not operating under a rationalization program. While there are limitations on the amount of Pacific cod *harvested* by the rationalized sectors, there are no limits on the amount harvested by catcher vessels that can be delivered to catcher processors or floating processors that operate under these rationalized programs. In the recent past, representatives from Adak have proposed Council action to provide such processing limits (sideboards) in the Eastern and Central AI Pacific cod fisheries, in order to protect shoreside processing opportunities for these species.

Problem Statement:

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

Affected resource and areas:

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

Affected vessels:

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

Note that the Council’s motion above (“affected vessels”) includes an exemption to AFA processing vessels that have shown continuous processing participation as motherships in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA in 1999. One AFA catcher processor meets the criteria for the exemption, and thus is not subject to the proposed action.

Alternatives and options

This analysis evaluates two primary alternatives, with several overlapping components, options, and suboptions. Alternative 1 is the no action alternative, which reflects the status quo (i.e., no processing sideboards). Alternative 2 would establish a processing sideboard on Pacific cod harvested by catcher vessels in Area 541 or 542 which would essentially limit the amount of Pacific cod harvested in these areas that could be delivered to processing vessels in the three rationalized sectors (AFA, crab rationalization, and BSAI Am. 80). The sideboard could be in the form of a limit on metric tonnage delivered to the affected sectors, and/or as a date before which catcher vessel Pacific cod deliveries could not be made to the rationalized processing vessels. The combination of components (below) essentially creates a multitude of various potential options for action by the Council.

Alternative 1. No action

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

Component 1. Establishing processing sideboard

Option 1. Sideboard limit

All affected processing vessels that accept deliveries of Pacific cod harvested in Areas 541 or 542 would be combined under a single sideboard. Limit the amount of Pacific cod harvested in Areas 541 or 542 that may be delivered to the affected Federally permitted processing vessels by other vessels to:

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

Option 2. Sideboard date

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

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

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

Component 2. Qualifying years

Option 1. Recent history

- Suboption 1. 2005 – 2007 (3-year period prior to 2008)
- Suboption 2. 2003 – 2007 (5-year period prior to 2008)

Option 2. Years prior to implementation of the respective rationalization program

- Suboption 1. 3-year period prior to program implementation
- Suboption 2. 5-year period prior to program implementation

Background

Historically, a portion of the BSAI Pacific cod ITAC allocated to catcher vessels has been harvested in the eastern AI (Area 541) and central AI (Area 542). During 2000 – 2008, the amount of the BSAI Pacific cod catcher vessel harvest from Areas 541 and 542 has ranged from 12% to 26% (Table E- 1). Through June 20, 2009, the catcher vessel sector harvest in these areas was estimated as 31% of its total BSAI Pacific cod harvest. A portion of this harvest is typically processed offshore, by motherships, floating processors, or catcher processors acting as motherships. Since 2000, the majority has been delivered to shoreside processing plants.

Table E- 1 Retained harvest of Pacific cod from the Eastern and Central AI, 2000 – 2009

| Year | Harvest Sector ¹ | # vessels | Eastern & Central AI tons | Percent AI/BSAI |
|------|-----------------------------|-----------|---------------------------|-----------------|
| 2000 | CP | 41 | 14,486 | 13% |
| | CV | n/a | 13,761 | 24% |
| | Total | | 28,246 | 16% |
| 2001 | CP | 33 | 13,896 | 11% |
| | CV | n/a | 6,804 | 19% |
| | Total | | 20,700 | 13% |
| 2002 | CP | 28 | 11,847 | 9% |
| | CV | n/a | 15,184 | 28% |
| | Total | | 27,031 | 15% |
| 2003 | CP | 25 | 11,751 | 9% |
| | CV | 56 | 17,242 | 26% |
| | Total | | 28,993 | 15% |
| 2004 | CP | 23 | 11,158 | 8% |
| | CV | 38 | 13,498 | 24% |
| | Total | | 24,656 | 13% |
| 2005 | CP | 20 | 9,215 | 7% |
| | CV | 33 | 8,000 | 16% |
| | Total | | 17,215 | 9% |
| 2006 | CP | 24 | 7,334* | 6%* |
| | CV | 42 | 6,201 | 12% |
| | Total | | 13,536* | 8%* |
| 2007 | CP | 24 | 10,636 | 10% |
| | CV | 54 | 12,301 | 26% |
| | Total | | 22,937 | 15% |
| 2008 | CP | 24 | 5,565* | 6%* |
| | CV | 65 | 11,279 | 24% |
| | Total | | 16,844* | 12%* |
| 2009 | CP | 18 | 4,501* | 10%* |
| | CV | 34 | 12,078 | 31% |
| | Total | | 16,579* | 19%* |

Source: NMFS blend/catch accounting database, 2000 - 2009. 2009 data are preliminary, and include harvest through week-ending date 6/20/09. Retained catch only. Excludes CDQ harvest and State-managed AI P. cod fishery.
¹Harvest sector indicates whether a vessel was acting as a CV or CP during a given landing. A given vessel may operate as both a CV and CP. N/a = not available. Unique CV counts in these data are not reliable prior to 2003.
 *Totals (2006, 2008, and 2009) do not include all harvest data for the CP sectors, due to confidentiality issues when combined with Table 4.

Adak and Atka are the two communities located in Area 541 with shoreside processing plants that the processing sideboards are intended to protect, by limiting the amount of Pacific cod deliveries that each of the rationalized sectors (AFA, crab processing vessels, Amendment 80 CPs) can receive from catcher vessels harvesting cod in the Eastern and Central AI. Adak Fisheries in Adak receives the majority of Pacific cod harvested by catcher vessels in Areas 541 and 542, and its primary fishery is Pacific cod. Adak's share of the AI Pacific cod fishery has generally been increasing since the plant was bought by Adak Fisheries in late 2001.

In contrast, Atka Pride Seafoods in Atka almost exclusively processes halibut and sablefish. This processor does not currently have the capacity to process Pacific cod, but representatives have noted that the plant is being reconstructed and remodeled, with the intent to be able to process Pacific cod in the future, should it become economically viable.¹ In the interim, Atka depends on a floating processor to process Pacific cod, and representatives of Atka have testified to the Council that they oppose an action that would essentially require Pacific cod to be processed onshore. This is primarily due to the uncertainty surrounding whether processing cod at the plant will be economically viable in the short and long-term, and the relationship established with a floating processor, which pays fish taxes to Atka, and provides a market for local cod, crab, and other species.

The proposed sideboard would be applied to all three rationalized processing sectors combined. While the data cannot be provided on an individual sector level for the rationalized processing sectors, Table E- 2 below provides a summary of how much of the catcher vessel Pacific cod harvest from Areas 541 and 542 is being delivered shoreside versus to rationalized CPs/motherships/floaters. Data prior to 2003 are not provided in this table, due to confidentiality issues when combined with other tables in the analysis, and the potential for providing misleading data due to aggregation. Note, however, that harvest share by processing sector is provided in Table 16 of the document, such that the Council and the public can understand the distribution of Pacific cod processing onshore versus offshore since 1994.

The "percent of BSAI" column shows the retained harvest by each sector in Areas 541 and 542 as a percentage of the total CV Pacific cod catch in the BSAI. The processing sideboards are calculated as a percentage of the total CV Pacific cod catch in the BSAI, since it is assumed they would be applied annually to the combined BSAI CV Pacific cod allocations (which account for all catch).² Thus, retained Area 541/542 catch divided by total BSAI catch appears to be the most appropriate approach.

Table E- 2 shows that the shoreside sector received an increasing share of the Eastern and Central AI Pacific cod deliveries during 2003 - 2007, from 53% in 2003 to almost 87% in 2007, with an average share of about 72%. The rationalized mothership/floater sector received a high of 47% in 2003 and a low of 13% in 2007, with an average share of about 29%.

In 2008, the shoreside share was reduced to about 42%, with the remaining 58% delivered to the rationalized processing sectors. The amount of harvest delivered to each individual rationalized sector cannot be provided due to confidentiality issues, but one AFA CP, two Am. 80 CPs, and three crab processing vessels received cod deliveries totaling about 6,400 mt in 2008. The shoreside sector received about 4,800 mt, with the great majority of that harvest delivered to Adak. If 2008 is included in the average (2003 – 2008), the average shoreside share declines to about 67%, with the remaining 33% delivered to the rationalized processing sectors. Including Pacific cod harvest in Areas 541 and 542 from the State managed AI fishery changes those overall percentages by less than one percentage point.

¹Personal communication, Joe Kyle, APICDA, May 19, 2009.

²Note that some, but not all, of the Pacific cod CV sectors have a separate incidental catch allowance. Hook-and-line and pot gear (CP and CV sectors combined) have a 500 mt annual ICA. The Council would need to clarify whether the sideboard should be applied to the combined BSAI CV Pacific cod allocation plus the ICA or without the ICA. The retained catch data used in the tables includes all targets, so it includes incidental catch.

Table E- 2 Amount of CV Pacific cod harvested in Area 541 and 542, by processing sector, 2003 - 2009

| YEAR | AFA/Crab/Am. 80 mothership/floater landings in Areas 541 and 542 | | | Shoreside landings in Area 541 and 542 ¹ | | | CV cod landings in Areas 541 and 542 | Total CV cod catch in BSAI |
|------------------|--|--------------|-----------|---|--------------|-----------|--------------------------------------|----------------------------|
| | mt | % of AI | % of BSAI | mt | % of AI | % of BSAI | | |
| 2003 | 8,013 | 47.0% | 12.2% | 9,019 | 53.0% | 13.7% | 17,031 | 65,936 |
| 2004 | 4,160 | 30.5% | 7.4% | 9,497 | 69.5% | 16.9% | 13,657 | 56,059 |
| 2005 | 1,458 | 18.4% | 2.9% | 6,481 | 81.6% | 12.7% | 7,939 | 51,020 |
| 2006 | 1,035 | 15.2% | 2.0% | 5,783 | 84.8% | 11.4% | 6,818 | 50,632 |
| 2007 | 1,529 | 13.4% | 3.2% | 9,900 | 86.6% | 21.0% | 11,429 | 47,235 |
| 2008 | 6,423 | 57.2% | 13.5% | 4,801 | 42.8% | 10.1% | 11,224 | 47,675 |
| 2009* | 3,461 | 28.7% | 8.8% | 8,617 | 71.3% | 21.8% | 12,078 | 39,471 |
| Average | | | | | | | | |
| 2003 - 07 | 3,239 | 28.5% | 6.0% | 8,136 | 71.5% | 15.0% | 11,375 | 54,176 |
| Average | | | | | | | | |
| 2003 - 08 | 3,770 | 33.2% | 7.1% | 7,580 | 66.8% | 14.3% | 11,350 | 53,093 |

Source: ADF&G fishtickets, 2003 – 2008, retained catch only, except for the last column. Data for total CV cod catch in BSAI is total catch (retained & discarded) from the NMFS catch accounting database. Excludes CDQ harvest and State AI cod fishery harvest.

*2009 data are preliminary through 6/20/09, from NMFS catch accounting database.

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

Adak Fisheries has received the majority of the catcher vessel deliveries of Pacific cod harvested in these two areas. In 2005, 2006, and 2007, Adak Fisheries received an estimated 81%, 82%, and 84% of the Pacific cod harvested by catcher vessels in the Central and Eastern AI, respectively. In 2008, that share dropped to 38%, with the majority of CV Pacific cod delivered offshore to floating processors or catcher processors acting as motherships. On average during 2002 – 2008, Adak Fisheries received about 63% of the Pacific cod harvested by catcher vessels in the Central and Eastern AI. In part, it was the 2008 season which prompted the proposed action, to limit the amount of CV Pacific cod harvested in Area 541 and 542 that can be delivered to the rationalized processing sectors to the sectors’ historical share.

The preliminary data for 2009 indicates a different processing distribution compared to 2008. In 2009, the shoreside share was about 71%, with the remaining 29% delivered to the rationalized processing sectors. Thus, the 2009 distribution (through June 20, 2009) mirrors the average 2003 – 2007 distribution between the offshore and onshore processing sectors.

Note that the Council also has an option to establish a processing sideboard that would apply only to CV deliveries of Pacific cod harvested in Area 542. Annual data for Area 542 data cannot be provided in most cases, due to confidentiality rules. However, on average during 2003 – 2008, the mothership/CP sector received about 48% of the CV cod harvested in Area 542, and the shoreside sector received about 52% (see Table E- 3). Thus, the distribution between processing sectors of cod harvested in Area 542 during 2003 – 2008 is much different from that of Areas 541 and 542 combined. The average during 2003 – 2007 results in the same distribution.

In 2008, the processing distribution in Area 542 does not vary from the previous six-year average as much as in Areas 541/542 combined. The 2008 harvest data are not provided separately for Area 542, due to confidentiality reasons, as only 2 rationalized processing vessels received cod harvested by catcher vessels in Area 542. The same holds for 2009 – while the harvest data for Area 542 catcher vessel cod processed by the offshore and onshore sectors are confidential, the processing distribution between these two sectors does not differ substantially from the six-year average. Note that of the total Pacific cod CV harvest in both Area 541 and 542, an average of 85% is harvested in Area 541, with 15% harvested in

Area 542.³ The total amount of cod harvested by catcher vessels in Area 542 is typically only several hundred metric tons.

Table E- 3 Amount of CV Pacific cod harvested in Area 542 (Central AI), by processing sector, average 2003 – 2008

| AFA/Crab/Am. 80 mothership & floater CV landings in Area 542 | | | | Shoreside landings in Area 542 | | | CV cod landings in Area 542 | Total CV cod catch in BSAI |
|--|-----|---------------|-----------|--------------------------------|---------------|-----------|-----------------------------|----------------------------|
| YEAR | Mt | % of Area 542 | % of BSAI | Mt | % of Area 542 | % of BSAI | | |
| Average 2003 - 08 | 758 | 48% | 1.4% | 816 | 52% | 1.5% | 1,574 | 53,093 |

Source: ADF&G fishtickets, 2003 – 2008, retained catch only, except for the last column. Data for total CV cod catch in BSAI is total catch (retained & discarded) from the NMFS catch accounting database. Excludes CDQ harvest and State AI cod fishery harvest.
¹Harvest attributed to ‘shoreside landings’ includes deliveries to one ‘other’ mothership in 2006 that is not part of a rationalization program, in order to preserve confidentiality and separate deliveries to the AFA/Crab rationalization/Am. 80 sectors.

Results of sideboard limit (Alt 2, Comp. 1, Option 1 & 3)

The 16 processing sideboards resulting from the proposed options are calculated below in Table E- 4. The estimated results of the proposed sideboard options are based on the data in Table 16 and Table 17 of the analysis, excluding 2008 and 2009, as these are not qualifying years. Recall that the Council also exempted one AFA CP with long-term, continuous processing history in the Aleutians, and thus, its history is not included in the numerator of the calculations of the processing sideboard options. ADF&G fishtickets were used for Pacific cod harvest data because processors are identified on nearly all fish ticket records. The NMFS Blend data identifies the catcher vessel processing sector (mothership or shoreside) of all processors, but is missing some data on the individual processing vessel or facility.⁴

The second and third columns of Table E- 4 show the resulting sideboards under Option 1, in which the sideboard is based on and applied to Areas 541 and 542 combined. The fourth and fifth columns show the resulting sideboards under Option 3, in which the sideboard is based on and applied to Area 542 only.

Suboption 1 is a ‘best year’ option. As noted previously, sideboards established under previous programs have not been based on a ‘best year’, but rather an average over a series of years. For Suboptions 1a and 1b, the analyst selected the best year within the suite of qualifying years shown for the combined three rationalized sectors, and the denominator is the corresponding total Pacific cod BSAI CV catch in that year. The results of Suboption b are confidential, since the year with the greatest amount of processing (2003) had only two unique processors.

For Suboption 1c and 1d, the suite of qualifying years is different for each rationalized sector. The analyst used the best year of the suite for each of the rationalized sectors, and summed those harvests. For example, for Suboption 1c, the AFA sector’s best year is 1997; the crab sector’s best year is 2003, and the Amendment 80 sector’s best year is 2007. Those harvests were summed and divided into the corresponding sum of the total BSAI CV Pacific cod harvest during 1997, 2003, and 2007. Because the

³This represents the 1994 – 2008 average. The most recent nine years (2000 – 2008) result in the same distribution.

⁴Fishticket data prior to 2001 was supplemented with Blend mothership data, because motherships were not required to fill out fish tickets until 2000. When Blend mothership data was used to supplement the fish ticket data, the individual processing vessel information was researched to ensure that landings were assigned to the correct sector for the purposes of this action. All of the steps to calculate the sideboard percentages cannot be shown due to confidential data. For all calculations, the numerator of the sideboard calculation is retained CV catch only, in the specified area(s), delivered to the processing vessels subject to the sideboard. The denominator is the corresponding total Pacific cod BSAI CV catch in those years.

best years for each rationalized sector do not change under Suboption c or Suboption d, the resulting sideboards are the same.

Table E- 4 Processing sideboards resulting from Component 1, Options 1 & 3, and Component 2

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

Source: ADF&G Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Numerator of sideboard calculation under Option 1 is retained CV catch in Areas 541 & 542, delivered to processing vessels subject to the sideboard. Numerator of sideboard calculation under Option 3 is retained CV catch in Areas 542 only, delivered to processing vessels subject to the sideboard. Denominator of calculation for both options is total BSAI CV catch from NMFS Blend/catch accounting database.

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

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

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

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

In sum, the proposed action is intended to limit the AFA, crab, and Amendment 80 sectors’ mothership processing activity of CV Pacific cod harvested in Area 541 and 542 to its historical share. In effect,

Alternative 2 is designed to limit the percentage of Pacific cod delivered to these vessels so that it mirrors a year or series of years, similar to the status quo. Under a sideboard that applies to Area 541 and 542 combined (Component 1, Option 1), the sideboards range from 1.6% to 4.0% of the BSAI catcher vessel Pacific cod ITAC. Note also that basing the sideboard on the average of the three most recent qualifying years (2005 – 2007) results in the lowest sideboard percentage; while basing the sideboard on the greatest amount delivered in the 3 or 5 years prior to implementation of each program results in the highest sideboard percentage, recognizing that the results of one option (Option 1, Suboption 1b) are confidential. Regardless, the resulting sideboards do not differ significantly under any of the suboptions under Option 1.

While the proposed sideboards may have been constraining on the rationalized processing sectors in 2008, they would likely have been less so, if at all, in 2009. In some years, the sideboard may be constraining on the rationalized processing sectors, while in other years, it may have no direct effect. The rationalized processing sectors may participate in this fishery when the Pacific cod prices are high, for example, or when TACs for other species (e.g., pollock) are low. The purpose of a sideboard is to limit opportunistic behavior that is possible in a rationalized sector.

Under a sideboard that applies only to Area 542 (Component 1, Option 3), the range of the proposed sideboards is from 0.1% to 0.8%, thus, there is not a substantial difference between any of the proposed suboptions. While annual 2008 and 2009 data for Area 542 cannot be provided due to confidentiality, the proposed sideboards for Area 542 would not have been constraining on the rationalized processing sectors in 2007.

Should the Council limit the proposed processing sideboard only to CV cod landings in Area 542, it would represent a much smaller effect on the affected mothership sectors, as well as smaller ‘protections’ for the onshore processing sector, due to the fact that an average of 15% of the Area 541/542 Pacific cod harvest comes from Area 542. It may be relatively easy to circumvent the intent of a processing sideboard limited to Area 542, as the rationalized mothership/CP sector and associated catcher vessels could choose to limit harvest only to Area 541, where the majority of the cod harvest has been taken between the two areas. Catcher vessels could also choose to expand harvest in and make deliveries to motherships in the Bering Sea, which would also circumvent the intent of the proposed action.

Overall, one concern is that the proposed action would not provide the intended benefits to shoreside processors. Note that if a sideboard was established that limited deliveries to AFA, crab rationalization, and Amendment 80 CPs/floater/motherships, catcher vessels could continue to deliver to motherships or floating processors not in one of these rationalized sectors, or shoreside processors, without regulatory limits. Also in December, the Council exempted AFA processing vessels that have shown ‘continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA.’ Only one AFA CP has continuous participation operating in this capacity, thus, this vessel’s history is not used to calculate the numerator of the proposed sideboards, nor would it be subject to those sideboards.⁵ Thus, catcher vessels could continue to deliver to the exempted AFA processing vessel without restriction. The exempted AFA CP could potentially realize an increased share of the overall CV Pacific cod harvested in Areas 541 and 542, particularly if it is the only mothership operating in the area in the A season, under the exemption.

Deliveries to the exempted AFA catcher processor or ‘other’ motherships or floating processors would negate the purpose of the proposed action with regard to shoreside processors. As provided in the tables, only one to two ‘other’ motherships/floaters, that are not part of the rationalized sectors, have taken CV

⁵This is consistent with other sideboard exemptions created in the AFA and the crab rationalization programs, in that history from exempted vessels is not included in the numerator of the sideboard calculation.

deliveries of Pacific cod harvested in Area 541 or 542 since 2000. In some years, no ‘other’ motherships participated.

Concerns also exist regarding the potential for stranding fish in the Aleutians, in the event that ‘other’ floaters are not available, the Adak plant is not operating in a given year, and/or the plant in Atka is not processing Pacific cod. Because the fishery is currently managed under a combined BSAI Pacific cod TAC, ‘stranding fish’ is not a likely scenario, unless the TAC cannot be fully harvested in the Bering Sea and Area 543. That issue spurs the possibility that restricting processing opportunities in Areas 541 and 542 could result in some catcher vessels shifting their operations to either the Bering Sea or Area 543 (western Aleutian Islands). This possibility exists unless and until the BSAI Pacific cod TAC is split into two separate areas TACs for the BS and the AI, an action which the Council will discuss in April 2010, and may be severely influenced by the results of the ongoing Steller sea lion Biological Opinion, also scheduled for review in April 2010. Note that the proportionate amount of AI Pacific cod currently harvested by catcher vessels in Area 543 is very low (5%) compared to Area 541 (80%) and Area 542 (15%). In addition, the ability for catcher vessels to harvest Pacific cod in Area 543 also may be significantly influenced by the results of the Steller sea lion Biological Opinion. Clearly, it is not possible to determine the extent to which individual operations would shift to other areas due to the proposed action, but the possibility exists.

The action is intended to benefit catcher vessels and shoreside processors, specifically in Adak, as cod landings in Adak would support the plant and help to provide the year-round markets necessary for smaller vessels that participate in several fisheries. Restrictions on offshore deliveries could also benefit shoreside processors in other communities, such as Dutch Harbor and Akutan, although other shoreside processors have received relatively small amounts of Pacific cod harvested in Areas 541 and 542 compared to Adak. This action could also potentially benefit the community of Atka and its shoreside processor, if the processor expands its capacity to process crab and Pacific cod to the extent that it is economically viable to process cod in the future. However, representatives of Atka and Atka Pride Seafoods have expressed opposition to the proposed action at previous Council meetings and in personal communications, indicating that a reliance on and relationship with a floating processor is necessary in the short, and possibly, long-term, in order to process crab and Pacific cod and benefit the community.

Ultimately, the proposed action serves to limit the markets available to all catcher vessels harvesting Pacific cod in the Eastern and Central Aleutians. Processing opportunities were already more limited in 2009 compared to prior years, likely due to declining Pacific cod markets. The primary mothership vessel that operated near Adak in 2008 did not go out to Adak in the 2009 A season, and there was not significant participation from any other mothership in Area 541 or 542. Thus, while part of the original purpose of establishing separate catcher vessel sector allocations by gear type was to provide additional opportunities for harvest by smaller catcher vessels, this action may serve to reduce the operational flexibility and negotiating leverage of AI catcher vessels, which could potentially lead to a lower price for their catch.

In addition, since the initiation of this regulatory amendment, Adak Fisheries’ financial situation has changed and future operation of the plant has become uncertain. Minimal information is reported here, as much is anecdotal or confidential, and circumstances are changing sufficiently rapidly such that information reported here may not be up-to-date. Adak Fisheries essentially stopped processing after the 2009 Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April). The plant is currently in ‘hibernation mode,’ running off of limited power. In early August 2009, a different company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy.⁶ The company has several unpaid creditors, totaling several million dollars. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and

⁶Source: Seafoodnews.com.

related assets to a new company, Adak Seafood, LLC.⁷ In sum, it is uncertain whether a shorebased plant in Adak will be operational in the near or long-term future.

Results of sideboard date (Alt 2, Comp. 1, Option 2 & 3)

Component 1, Option 2 proposes a different method (sideboard date) by which to establish a limit on offshore processing. Note that the options proposed to create a sideboard date (i.e., CV deliveries of Federal non-CDQ Pacific cod harvested in Area 541 or 542 to the rationalized processing sectors would be prohibited prior to this date) could be combined with a processing sideboard, or they could be selected exclusively. Note also that Component 1, Option 2 could be selected in tandem with Option 3, which would limit the sideboard date only to catcher vessel deliveries of Pacific cod harvested in Area 542.

The sideboard dates resulting from the suboptions under Options 2 and 3 are shown below in Table E- 5. For all calculations, the date provided reflects the earliest or average date (depending on the suboption) that the rationalized sectors received a catcher vessel delivery of Pacific cod harvested in Area 541/542 or Area 542 only.

Suboptions 1a and 1b for the sideboard date options were calculated as the earliest dates among any of the rationalized sectors within the 2005 – 2007 and 2003 – 2007 periods, respectively. For example, the earliest date a cod delivery was received by any of the three rationalized sectors in 2005 – 2007 in Area 541 or 542 was February 27 (by a crab processing vessel). Thus, February 27 would be the sideboard date applied to all three rationalized sectors under Component 1, Option 2, Suboption 1a.

Suboption 1c and d were calculated as the earliest dates for each sector within the three or five years prior to implementation of each rationalization program, respectively. For example, under Suboption 1c, the analyst evaluated the earliest delivery date taken in 1996, 1997, or 1998 for the AFA sector; 2002, 2003, or 2004 for the crab sector; and 2005, 2006, or 2007 for the Amendment 80 sector.⁸ Out of those 9 years for those particular sectors, the earliest delivery date overall was February 28.

The resulting sideboard dates are slightly later in the year under Suboption 2, which averages the earliest dates across various time periods. Suboption 2a and b are relatively straightforward. Under Suboption 2a, the earliest date for a delivery to any of the three rationalized sectors in each of the years 2005, 2006, and 2007 was used to calculate the average over three years. The same calculation was done for Suboption 2b, during 2003 – 2007. For Suboption 2c and d, the analyst calculated the average delivery date for each sector during the three or five years prior to the implementation of its rationalization program, respectively. Then those three dates were averaged to find an average date that would apply to a single sideboard for all three sectors combined. The Council should clarify if any of these approaches do not meet its intent.

⁷The notice for the hearing (Case No. 09-00623 DMD, dated October 9, 2009) states that the motion is to obtain Court authority to sell the plant and related assets to Adak Seafood, LLC, a newly formed Delaware limited liability company affiliated with Drevik International. Kjetil Solberg, former owner of Adak Fisheries, also has a relationship to the buyer. The sales price is \$488,000, plus assumption of the debtor's entire obligation to Independence Bank of approximately \$6.7 million. The hearing notice also states that the sale is to be free and clear of the claims, liens, and interests of all persons receiving notice of the motion, except Independence Bank; and the claims, liens, and interests of all such persons (excluding Independence Bank) shall attach to the sale proceeds to the same extent and in the same order of priority as existed in the underlying property.

⁸Staff recognizes that there could be a different interpretation of how to calculate the single sideboard options under Suboption 1c and d. For example, under Suboption 1c, one could also interpret the language to mean to use the earliest delivery date in 1996, 1997, 1998, 2002, 2003, 2004, 2005, 2006, or 2007 for any of the three rationalized sectors.

Table E- 5 Sideboard dates resulting from Component 1, Options 2 & 3, and Component 2

| Processing sideboard date options | Sideboard date (Option 2: Area 541 & 542) | Sideboard date (Option 3: Area 542 only) |
|---|--|---|
| Suboption 1. earliest date delivered within... | | |
| a. 2005 – 2007 | Feb 27 | Mar 12 |
| b. 2003 – 2007 | Feb 27 | Mar 4 |
| c. 3 yrs prior to program implementation | Feb 28 | Mar 4 |
| d. 5 yrs prior to program implementation | Feb 19 | Mar 4 |
| Suboption 2. average earliest date delivered within... | | |
| a. 2005 – 2007 | Mar 3 | Mar 13 |
| b. 2003 – 2007 | Mar 2 | Mar 9 |
| c. 3 yrs prior to program implementation | Mar 7 | Apr 19 |
| d. 5 yrs prior to program implementation | Mar 10 | Mar 14 |

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

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

In sum, this action would effectively work as a prohibition on mothership deliveries until the selected date, and may result in similar effects as the sideboard amount. Prior to the date, CV cod could be delivered to: processing vessels that are not identified as part of these rationalized sectors; the exempted AFA CP; or shoreside plants. If rationalized floaters/motherships/CPs are not allowed to process AI cod until the sideboard date, it effectively guarantees a portion, and in some years likely all, of the A season trawl CV harvest to be delivered shoreside. These shoreside deliveries would likely primarily be to Adak, as Adak is the closest shoreside plant in the area that processes Pacific cod. Recall, however, that the future of the Adak plant is currently unstable, as Adak Fisheries has not been processing groundfish since mid-April 2009, and the company filed for bankruptcy in early September 2009.

A few additional summary points follow:

- The sideboard dates resulting from Option 2 (Area 541 and 542 combined) are late February to early March, due primarily to mothership activity of crab vessels processing cod from the Aleutians during the past seven years.
- The sideboard dates resulting from Option 3 (Area 542 only) are later than Option 2. They are generally early to mid-March, also due primarily to mothership activity of crab vessels.
- Under recent annual closures, the majority of the sideboard dates would effectively operate as a prohibition on trawl catcher vessel deliveries of A season Pacific cod harvested in Areas 541 and 542 to processing vessels from the three rationalized sectors acting as motherships (with the exception of the one exempt AFA CP).
- In one case, under a sideboard date that only applies to Area 542, one suboption results in a sideboard date that would prevent catcher vessel deliveries to the three rationalized sectors acting as motherships (with the exception of the one exempt AFA CP) until after the trawl B season start date (April 1).
- Depending upon the Pacific cod market and operations in Adak, this could result in a large share of the trawl catcher vessel A season cod harvested in Areas 541 and 542 being delivered shoreside to

Adak, and/or to the one exempt AFA trawl catcher processor that traditionally operates in the Aleutians. There would be likely be limited alternative processing opportunities for catcher vessels harvesting cod in Areas 541/542. For those catcher vessels that prefer to deliver shoreside, or cannot deliver unsorted cod-ends at-sea, they could either deliver to Adak or to a shoreside processor that is much further from the fishing grounds, such as Dutch Harbor, or Akutan.

- Some trawl catcher vessels may prefer to shift operations to Area 543, or operate solely in the Bering Sea. Shifting effort to the Bering Sea is possible until and unless the BSAI TAC is split between the BS and the AI areas.
- The sideboard dates under Suboption 1 (a – d), Suboption 2a, and Suboption 2b do not reflect the start dates for the AFA and Amendment 80 sectors’ mothership activity. Only Suboption 2c and Suboption 2d reflect the start dates for all three sectors’ mothership activity.

Net benefits to the Nation

Overall, this action is likely to have a limited effect on net benefits to the Nation. In large part, the action affects distributional equities among various sectors eligible to process Pacific cod harvested by catcher vessels in Areas 541 and/or 542. To the extent that the sideboard alternatives limit processing competition for landings, those alternatives are likely to slightly reduce net benefits to the nation. This change in net benefits is likely to vary over time and will depend on the degree to which processors that are not subject to the sideboard elect to compete for landings.

In sum, the main economic benefit to be obtained from the proposed action is the prevention of expansion of Area 541/542 Pacific cod processing capacity by the three rationalized processing sectors at issue (AFA, crab, and BSAI Amendment 80), which has primarily distributional effects on the universe of existing participants. Any effects on the net benefits to the Nation are considered minor.

Environmental assessment

An environmental assessment (EA) is intended, in a concise manner, to provide sufficient evidence of whether or not the environmental impacts of the action is significant (40 CFR 1508.9). Three of the four required components of an environmental assessment are included in Section 3.0. These include brief discussions of: the purpose and need for the proposal, the alternatives under consideration, and the environmental impacts of the proposed action and alternatives. The fourth requirement, a list of agencies and persons consulted, is provided in Section 8.0.

Effects on the target species (Pacific cod) should not be significant. Overall fishing effort in the BSAI Pacific cod fishery is not expected to change due to the proposed action; the issue is one of processing distribution between offshore and onshore sectors in Area 541 and 542. Limits regulate the catch of forage and prohibited species in Federal waters, so any increase in their catch will not achieve a significantly adverse threshold. Given that an overall increase in BSAI Pacific cod fishing activity is not expected under Alternative 2, and there are measures currently in place to protect the physical and biological environment, the potential effect of the component on an ecosystem scale is very limited. As a result, no significant adverse impacts to marine mammals, seabirds, habitat, or ecosystem relations are anticipated.

Initial regulatory flexibility analysis

The IRFA is provided in Section 4.0. The IRFA addresses the statutory requirements of the Regulatory Flexibility Act (RFA), and evaluates the potential adverse economic impacts on small entities directly regulated by the proposed action. There are 19 CPs and 3 motherships listed in the American Fisheries

Act, 28 processing vessels eligible under the BSAI crab rationalization program, and 28 vessels qualified under the BSAI Amendment 80 program, estimated to be directly regulated (i.e., subject to the sideboard limit and/or date) by the proposed action.⁹ All of the these entities are categorized as large entities for the purpose of the RFA, either under the principles of affiliation, due to their being part of harvesting and processing cooperatives, or because they meet the \$4.0 million threshold.¹⁰

⁹Note that three of the catcher processors that qualified under Amendment 80 have subsequently sunk, and one was sold to Russia and cannot re-enter U.S. fisheries. However, a recent court decision (*Arctic Sole Seafoods v. Gutierrez*, May 19, 2008) ruled that a qualified owner of an Am. 80 vessel may replace a 'lost' vessel with a single substitute vessel, thus, there is the potential for 28 vessels to apply for Am. 80 quota in any given year.

¹⁰A business involved in both the harvesting and processing of seafood products is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in excess of \$4.0 million for all its affiliated operations worldwide.

1.0 INTRODUCTION

The groundfish fisheries in the Exclusive Economic Zone (EEZ) off Alaska are managed by the National Marine Fisheries Service (NMFS) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Under the authority of the MSA, the North Pacific Fishery Management Council (Council) developed Fishery Management Plans for the groundfish fisheries of the Gulf of Alaska management area (GOA) and Bering Sea and Aleutian Islands management area (BSAI).

This Regulatory Impact Review (RIR) evaluates the costs and benefits of proposed Federal regulatory amendments that would establish a sideboard on specified rationalized processing vessels, in order to limit catcher vessel deliveries of Pacific cod harvested in the Eastern and Central Aleutian Islands (Areas 541 and 542, respectively) to these vessels. A sideboard is a collective limit for all vessels subject to the sideboard; it does not represent a guaranteed allocation. Specifically, the action proposes to limit the amount of catcher vessel Pacific cod harvest in Areas 541 and 542 that can be processed by a processing vessel (catcher processor, floating processor, or mothership) that is part of an identified rationalization program. The rationalization programs include the American Fisheries Act (AFA), BSAI crab rationalization, and BSAI Amendment 80, which provide benefits to processing vessels and afford opportunities for consolidation, thus freeing some processing capacity to target the non-rationalized BSAI Pacific cod fishery. The intent of the amendment is to limit the amount of Pacific cod harvested in these areas and delivered to processing vessels to their historical share, in order to protect shoreside processing opportunities for Pacific cod.

Presidential Executive Order 12866, the National Environmental Policy Act (NEPA), and the Regulatory Flexibility Act (RFA), mandate that certain issues be examined before a final decision is made. The RIR and environmental assessment required under NEPA are contained in Chapters 2.0 and 3.0, respectively. Chapter 4.0 provides an Initial Regulatory Flexibility Analysis as required under the RFA. Chapter 5.0 includes a description of how the proposed action is consistent with the Magnuson-Stevens Act. References and lists of preparers and persons consulted are provided in Chapters 6.0, 7.0, and 8.0, respectively.

2.0 REGULATORY IMPACT REVIEW

An RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735; October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

“In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.”

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

2.1 Problem statement

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

The problem statement and additional statements regarding the affected area and sectors were first approved by the Council in June 2008 and amended at the December 2008 Council meeting. The current statements are as follows:

Problem statement:

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

Affected resource and areas:

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

Affected vessels:

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

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

The AFA, effective in 1999, created exclusive allocations of Bering Sea pollock for catcher vessels (CVs), catcher processors (CPs), and motherships, and included harvest sideboards for both the AFA catcher vessel and catcher processor sectors in the BSAI and the GOA. Regulations implementing the AFA prohibit AFA CPs from fishing in the GOA, and limit their processing of pollock and other groundfish.¹¹ The AFA also included crab processing sideboards, the regulations for which were based on the structure defined in the Act under Section 211(c)(2)(A).¹² This section of the Act is specific to shorebased and mothership processors. (Recall that catcher/processors are precluded from processing any crab under the AFA.) The AFA crab processing sideboards were eventually subsumed by the processing quota share allocations established under BSAI crab rationalization. The Council also established pollock processing limits for the AFA fleet, set at 30 percent of the BSAI pollock TAC available to the AFA sector.¹³ Additional measures to protect non-AFA processors through groundfish processing sideboards

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

¹²Section 211(c)(2)(A): (2) *BERING SEA CRAB AND GROUND FISH*.—(A) *Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term “facilities” means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.*

¹³50 CFR 679.7(k)(7) Excessive processing shares. It is unlawful for an AFA entity to process an amount of BS pollock that exceeds the 30-percent excessive share limit specified under § 679.20(a)(5)(i)(A)(7). The owners and operators of the individual

have been considered by the Council, but further discussions and decisions have been tabled until negative impacts are realized (NPFMC, April 2002).¹⁴

The BSAI Crab Rationalization Program, effective in 2005, allocates BSAI crab resources among harvesters, processors, and coastal communities. Share allocations to harvesters and processors, together with incentives to participate in fishery cooperatives, were intended to increase efficiencies, provide economic stability, and facilitate compensated reduction of excess capacities in the harvesting and processing sectors. Regional landing and processing requirements were included, as well as other community protection measures. Most king and Tanner crab fisheries in the BSAI are now rationalized crab fisheries. This includes the IFQ/IPQ fisheries; the CDQ crab fisheries (except in Norton Sound), and the allocation of golden king crab to Adak. A few BSAI king and Tanner crab fisheries remain under the License Limitation Program.¹⁵

BSAI Amendment 80 allocates several BSAI non-pollock¹⁶ groundfish fisheries among trawl fishing sectors, and facilitates the formation of harvesting cooperatives in the non-AFA trawl catcher processor sector. In effect, the program establishes a limited access privilege program¹⁷ for a subset of the non-AFA trawl catcher processor sector. Many of the elements of Amendment 80 were effective on October 15, 2007; the remaining portions of the final rule were effective January 2008.¹⁸

Amendment 80 was considered necessary to increase resource conservation and improve economic efficiency for harvesters who participate in the BSAI non-pollock groundfish fisheries (i.e., the non-AFA trawl CP sector). The program intended to allow members of the non-AFA trawl CP sector to more nearly optimize fishing effort, which would potentially reduce bycatch, minimize waste, and improve utilization of fish resources. The intended results include increased operational efficiency for vessels in the program, by allowing them to alter their historic fishing patterns and operate under a cooperative structure. The flexibility introduced with Amendment 80, and the ability to operate under a cooperative system, could provide these vessels a competitive advantage over participants in other fisheries that are not currently operating under a rationalized system.

Thus, similar to other rationalization programs, an ancillary goal of Amendment 80 was to limit the ability of the non-AFA trawl CP sector to expand their harvesting capacity into other fisheries not managed under a limited access privilege program. The Council recognized this need by establishing harvesting sideboards in the Gulf of Alaska.¹⁹ Harvesting sideboards limit harvest of Pacific cod, pollock, and rockfish in the GOA, the eligibility of Amendment 80 vessels to participate in GOA flatfish fisheries, and the amount of halibut PSC that Amendment 80 vessels can catch when harvesting groundfish in the GOA. However, while Amendment 80 allows for consolidation of a rationalized harvesting *and*

processors comprising the AFA entity that processes BS pollock will be held jointly and severally liable for exceeding the excessive processing share limit.

¹⁴*Report to the U.S. Congress and Secretary of Commerce: Impacts of the American Fisheries Act*, NPFMC, April 2002.

¹⁵Source: <http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/progfaq.htm#wicr>

¹⁶The groundfish species in the BSAI directly affected by Amendment 80 include Atka mackerel, AI Pacific ocean perch, Flathead sole, Pacific cod, rock sole, and yellowfin sole.

¹⁷The Magnuson Stevens Act (as amended through Jan. 12, 2007) defines the term: “‘limited access privilege’—

(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and (B) includes an individual fishing quota; but (C) does not include community development quotas as described in section 305(i).”

¹⁸The final rule is published at 72 FR 52668 (September 14, 2007).

¹⁹The GOA sideboard limits were based upon the harvest of species not allocated by the main portion of Amendment 80 (Component 1), during the same qualification years used to determine the non-AFA trawl CP sector’s allocation of the target species (1998 through 2004). Sideboards apply to all Amendment 80 vessels and all LLP licenses that can be used on an Amendment 80 vessel. Sideboards apply to all Amendment 80 vessels, with a limited exemption for the F/V GOLDEN FLEECE. Note that there are no BSAI sideboards for any species for Amendment 80 vessels.

processing sector, processing sideboards were not established for the Amendment 80 sector in either the Gulf of Alaska or the BSAI.

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

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

In sum, the Council may want to consider whether the proposed action resolves an unintended consequence of any of the three rationalization programs at issue, thus furthering the original goals of those programs. The AFA clearly required the protection of participants in other U.S. fisheries that could be negatively impacted by the BSAI pollock fleet, as previously discussed. Additional measures to protect non-AFA processors through groundfish processing sideboards have been considered by the Council, but further discussions and decisions were tabled until negative impacts were realized (NPFMC, April 2002).²⁰

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

Finally, consolidation of processing operations and the ability for Amendment 80 CPs to receive unsorted catch from catcher vessels was anticipated under the development of the BSAI Amendment 80 Program. The options proposed to resolve the identified problem are processing sideboards, or limits on the amount of Pacific cod harvested in the Eastern and Central AI by catcher vessels that can be delivered to Amendment 80 CPs, among other rationalized processing vessels. The proposed rule for Amendment 80 originally prohibited any Amendment 80 vessel from catching, receiving, or processing fish assigned to the BSAI trawl limited access sector (72 FR 30073, 5/30/07). The ‘trawl limited access sector’ consists of non-AFA trawl CVs and AFA vessels for the purpose of Amendment 80 species, which includes BSAI Pacific cod. The proposed rule (p. 30073) explained the issue as follows (please reference the entire rule for details):

“The Council clearly recommended that persons who are not participants in the Amendment 80 sector be prohibited from catching Amendment 80 species assigned to the Amendment 80 sector. It is also clear that the Council intended to prohibit Amendment 80 vessels from catching Amendment 80 species assigned to the BSAI trawl limited access sector. The Council noted that Amendment 80 vessel owners and operators, specifically Amendment 80 vessel owners and operators participating in Amendment 80 cooperatives, could consolidate fishing operations,

²⁰*Report to the U.S. Congress and Secretary of Commerce: Impacts of the American Fisheries Act*, NPFMC, April 2002.

receive CQ from other cooperatives, and otherwise benefit from the exclusive harvesting privileges this proposed LAPP provides. Because Amendment 80 vessels could also process catch onboard, the allocation of a portion of the ITAC to the Amendment 80 sector would effectively provide exclusive processing opportunities for that amount of the ITAC to Amendment 80 vessels. Conceivably, Amendment 80 vessels in cooperatives could consolidate processing activities. It is not clear that the Council considered or intended that Amendment 80 vessels should serve as processing platforms for multiple cooperatives, harvesters in the Amendment 80 limited access fishery, and the BSAI trawl limited access sector. Processing restrictions for other cooperatives and the Amendment 80 limited access fishery are discussed in Sections VII and VIII of this preamble.

Therefore, the proposed rule would prohibit any Amendment 80 vessel from catching, receiving, or processing fish assigned to the BSAI trawl limited access sector [emphasis added]. NMFS has determined that this prohibition would best meet the Council’s recommendation to provide an allocation of ITAC to the Amendment 80 sector, but not encourage the consolidation of fishing or processing operations in the BSAI trawl limited access sector. Additionally, allowing Amendment 80 vessels to receive or process fish caught by vessels in the BSAI trawl limited access sector could allow Amendment 80 vessels to serve as motherships (i.e., a processing platform that is not fixed to a single geographic location), or stationary floating processors, for the BSAI trawl limited access sector fleet. This could increase the potential that catch formerly delivered and processed onshore, or at specific facilities onshore, could be delivered and processed offshore. This change in processing operations could have economic effects. The Council did not specifically address these issues at the time of final Council action.”

However, the final rule for Amendment 80 does not limit the ability of Amendment 80 vessels to receive and process catch from other fisheries, such as the BSAI trawl limited access fishery. Instead, the prohibitions in the final rule are limited to prohibiting the use of an Amendment 80 vessel assigned to an Amendment 80 cooperative for a calendar year to receive or process catch from any Amendment 80 vessel not assigned to that Amendment 80 cooperative (or in the Amendment 80 limited access fishery) for that calendar year.

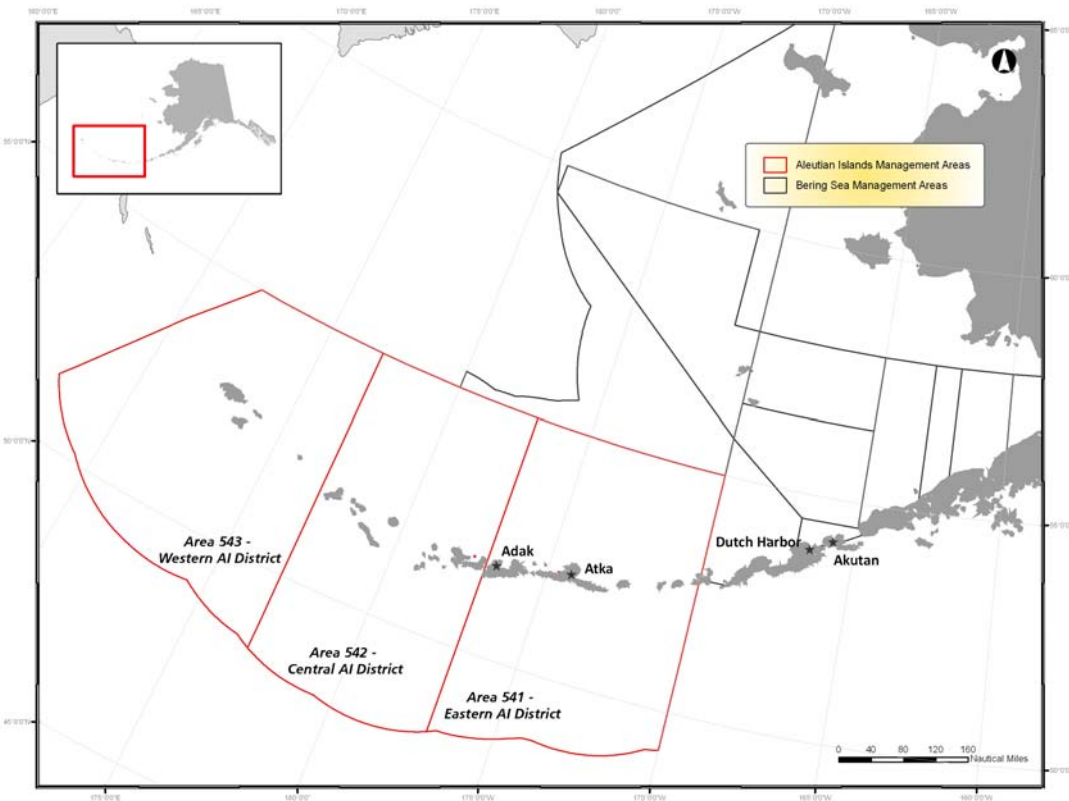
This change from the proposed rule was based on public comment received and is discussed in the final rule (72 FR 52679, 9/14/07). In effect, the preamble to the proposed rule stated several reasons for the proposed prohibitions on receiving and processing unsorted catch from the BSAI trawl limited access sector onboard an Amendment 80 vessel, including, but not limited to: (1) uncertainty over whether the Council intended to allow unrestricted delivery of unsorted catch; and (2) concern over the unintended consequences of allowing Amendment 80 vessels to receive catch from non-Amendment 80 vessels.

In light of public comment, NMFS reviewed the rationale for the proposed prohibitions, examined the administrative record, and developed additional analysis on the economic impacts of these proposed prohibitions. In general, during each year of a recent time period (2003 – 2006), only one Amendment 80 vessel received catch from a non-Amendment 80 vessel each year. The final rule reports that it appears that the non-Amendment 80 vessel and the Amendment 80 vessel are owned by the same entity, and the proposed prohibition would have limited the ability of this one entity to continue to deliver and process unsorted catch as it has historically. The analysis indicated that the practice of delivering unsorted catch from non-Amendment 80 vessels to Amendment 80 vessels is not as widespread as suggested by some commenters, although the final rule notes that industry participants may wish to engage in such practices in the future. On this issue, the final rule concludes: “Based on the above, previous concerns that permitting this practice would create a significant shift in processing patterns away from existing shore-based processors do not appear to be supported, particularly if current rates of delivery of unsorted catch from the BSAI trawl limited access sector to the Amendment 80 sector continue” (72 FR 52680,

9/14/07).²¹ Thus, the proposed and final rules for Amendment 80 clearly anticipated and analyzed this issue, and concluded that future potential impacts on the non-Amendment 80 sectors and onshore processing sectors were not likely to be substantial.

The problem statement notes that surplus processing capacity in the rationalized sectors has allowed these sectors to target the non-rationalized BSAI Pacific cod fishery at the expense of other industry and community investments. The Council motion from June 2008 notes that the action under consideration to establish processing sideboards is intended to protect two Aleutian Islands communities. These are Atka and Adak, both of which are located in Area 541, the Eastern Aleutian Islands (see Figure 1 below).

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



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

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

²¹Note that NMFS highlighted this issue to the Council during the public comment period on the proposed rule, and the Council did not submit comments suggesting that it had intended to restrict processing by Amendment 80 vessels in this manner.

with the advent of several rationalization programs (e.g., AFA, BSAI crab rationalization, and Amendment 80), there is a concern that mobile, floating processors (i.e., vessels operating as motherships) could increase effort in any remaining open fishery.

2.2 Proposed alternatives

This analysis evaluates two primary alternatives, with several overlapping components, options, and suboptions. **Alternative 1** is the no action alternative, which reflects the status quo (i.e., no processing sideboards). **Alternative 2** would establish a processing sideboard on the rationalized processing sectors, which would essentially limit the amount of catcher vessel Pacific cod harvested in Areas 541/542 that could be delivered to processing vessels in the three rationalized sectors (AFA, crab rationalization, and BSAI Am. 80). The combination of components essentially creates a multitude of various potential options for action by the Council.

There are two primary components under Alternative 2. **Component 1** addresses the overall approach taken to establish either: Option 1) a sideboard limit (a percentage of the BSAI CV Pacific cod ITAC converted annually to metric tons) and/or Option 2: a sideboard date, prior to which rationalized processing vessels would be restricted from taking catcher vessel deliveries of Pacific cod harvested in Areas 541/542. Option 1 and Option 2 are not mutually exclusive; the Council could choose to implement both a sideboard limit and a sideboard date or choose one or the other. Two suboptions under each option provide various approaches to establishing the limit and/or date. Option 3 under Component 1 provides an additional option to restrict the entire action to catcher vessel deliveries of Pacific cod harvested only in Area 542.

Component 2 defines the qualifying years by which the sideboard limit and/or sideboard date would be established. There are two general approaches to the qualifying years under Component 2. Option 1 would apply recent history, and there are two suboptions that provide a different series of years: Suboption 1 (2005 – 2007) and Suboption 2 (2003 – 2007). Option 2 would use the years prior to implementation of the three respective rationalization programs: Suboption 1 (3-year period prior to each program’s implementation) and Suboption 2 (5-year period prior to each program’s implementation).

Note that prior to February 2009, there also existed Component 3, which provided the option to establish either a single sideboard that would apply to all three rationalized sectors combined, or program-specific sideboards, which would be established and managed separately for each of the three rationalized sectors. At the February 2009 Council meeting, the Council approved a motion to eliminate the option to establish separate sideboards that would apply to each individual rationalized sector, based primarily on the fact that confidentiality rules prevent the analyst from providing the results of any of the options for separate, program-specific sideboard amounts. This is due to the limited number of processing vessels in each sector that have operated as motherships in this fishery during the proposed qualifying years.²² Thus, the only remaining option would establish a combined sideboard amount and/or sideboard date that would apply to all three rationalized sectors. This approach has been incorporated into Component 1.

²²See the February 2009 newsletter: <http://www.fakr.noaa.gov/npfmc/newsletters/NEWS209.pdf> or the February 2009 discussion paper: http://www.fakr.noaa.gov/npfmc/current_issues/pcod/EAIpcodSB209.pdf.

The following provides the complete suite of alternatives, components, options, and suboptions considered in this amendment package, as revised by the Council at its February 2009 meeting.

Alternative 1. No action

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

Component 1. Establishing processing sideboard

Option 1. Sideboard limit

All affected processing vessels that accept deliveries of Pacific cod harvested in Areas 541 or 542 would be combined under a single sideboard. Limit the amount of Pacific cod harvested in Areas 541 or 542 that may be delivered to the affected Federally permitted processing vessels by other vessels to:

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

Option 2. Sideboard date

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

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

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

Component 2. Qualifying years

Option 1. Recent history

- Suboption 1. 2005 – 2007 (3-year period prior to 2008)
- Suboption 2. 2003 – 2007 (5-year period prior to 2008)

Option 2. Years prior to implementation of the respective rationalization program

- Suboption 1. 3-year period prior to program implementation
- Suboption 2. 5-year period prior to program implementation

2.3 Affected resource and areas

The Council motion clarifies that the action would affect Pacific cod harvested in Areas 541 and 542 from the Federally-managed and State parallel fisheries. The proposed action focuses on limiting catcher vessel deliveries of Pacific cod in Area 541 (Eastern Aleutian District) and Area 542 (Central Aleutian District) to the three rationalized sectors (refer back to Figure 1 for a map of these areas). The following section provides detail on the rationalized sectors.

The Council confirmed staff assumptions in December 2008 that the processing sideboard would apply to all non-CDQ Pacific cod harvested by catcher vessels in these two areas in the Federal fishery, which includes the Pacific cod fishery in Federal waters and the parallel fishery that occurs in State waters. Thus, the CDQ BSAI Pacific cod fishery is not included in the proposed action, nor are any catcher vessel harvests in the CDQ fisheries used to calculate the proposed options for cod processing sideboards. Note

that currently, the vast majority of CDQ Pacific cod is harvested by hook-and-line CPs, thus, there would not likely be any practical effect of their inclusion regardless.

The State parallel fishery is opened at the same time as the Federal fishery in Federal waters. State parallel fishery harvests accrue toward the Federal total allowable catch (TAC) and Federally-permitted vessels move between State and Federal waters during the concurrent parallel and Federal fisheries. The State opens the parallel fisheries through emergency order by adopting the groundfish seasons, bycatch limits, and allowable gear types that apply in the adjacent Federal fisheries.²³ This action would affect catcher vessel Pacific cod harvest in both Federal waters and the parallel fishery. The proposed action would establish a processing limit for rationalized motherships/floating processors/catcher processors that receive deliveries of Pacific cod harvested by catcher vessels in Area 541 and 542 combined, or Area 542 only. The sideboard would apply to stationary floating processors with a Federal Processor Permit (FPP) and catcher processors and motherships with a Federal Fisheries Permit (FFP) that are receiving catcher vessel deliveries of Pacific cod harvested in Areas 541/542. The sideboards would apply to receipt of Pacific cod deliveries by a processing vessel with an FPP or FFP, from catcher vessels participating in the Federal Pacific cod fishery in Area 541/542 of the EEZ, or the Pacific cod fishery in State waters adjacent to Areas 541/542 opened by the State of Alaska, for which the State of Alaska adopts a Federal fishing season and the harvest of which accrues toward the Federal TAC (i.e., parallel fishery). A similar approach has been taken by other regulated (harvest) sideboard protections.

The proposed action would not affect the State-managed Pacific cod fishery that occurs in State waters in the AI. This fishery was established by the Alaska Board of Fisheries in 2006, and comprises 3% of the Federal BSAI Pacific cod ABC. This fishery is managed by the State and has different sector requirements and seasons than the Federal Pacific cod fishery. Additional background information on the AI State waters Pacific cod fishery is provided in Section 2.6. The State-managed AI Pacific cod fishery would not be affected by the proposed action, nor are the harvests in this fishery used to calculate the proposed options for cod processing sideboards.

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

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

²³In some cases, the State may establish additional gear or vessel size restrictions in State waters that would apply even during the parallel fishery (i.e., if the State establishes a general prohibition on trawl gear in State waters, that continues to apply during the parallel fishery).

2.4 Affected processing sectors

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

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

AFA Processing Sector

There are 20 AFA CPs and 3 motherships listed in the AFA, and one unlisted CP that is also eligible. The unlisted AFA CP is also eligible under Amendment 80. Because this vessel's harvest of Pacific cod accrues toward the Amendment 80 Pacific cod allocation under Federal regulations,²⁴ this vessel is included in the Amendment 80 sector for purposes of this action.

Note that in December 2008, the Council modified the part of the motion that identifies the AFA vessels affected by this action such that the proposed processing sideboards only affect AFA catcher processors and motherships that have not shown 'continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA.' In effect, the motion exempts AFA processing vessels that have documented continuous processing participation in the Aleutians in this manner since 1999. The Council discussion during the motion was relative to exempting AFA vessels that had been acting as *motherships*, receiving and processing Pacific cod harvested by catcher vessels, and the wording of the exemption was modified to that effect in February 2009.²⁵

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

²⁴See 50 CFR 679.2.

²⁵Staff requested this clarification, as one could interpret 'continuous processing participation' to mean catcher processor activity, i.e., processing cod caught by the same vessel. In response, the Council clarified the wording to limit the exemption to vessels that have acted as motherships (receiving and processing Pacific cod harvested by catcher vessels), which is consistent with the proposed action.

In sum, as only one AFA CP has continuous participation in this regard, the action is limited to the remaining 19 AFA CPs and 3 motherships listed in the AFA. These are the vessels whose mothership history (amount of Pacific cod delivered to these vessels by other catcher vessels) is used to calculate the proposed options for the cod processing sideboard. In effect, the exempted AFA CP's history is not used to calculate the proposed sideboards, nor is it subject to those sideboards. This is consistent with other sideboard exemptions created under the AFA and the crab rationalization programs, in that history from exempted vessels is not included in the numerator of the sideboard calculation.

A list of all vessels eligible under the AFA is provided as **Appendix 1**, including the one vessel exempt from this action and the unlisted vessel that is also eligible under BSAI Amendment 80. Note that the AFA CP sector currently has a Pacific cod harvest allocation of 2.3 percent of the BSAI Pacific cod ITAC, and thus is not subject to a harvest sideboard for Pacific cod. Only one AFA CP has targeted BSAI Pacific cod in recent years, while the remainder of the AFA CP sector harvests cod incidentally while prosecuting the BSAI pollock fishery. All harvest counts toward the sector's allocation.

BSAI Crab Processing Sector

Appendix 2 lists the 28 processing vessels that may be construed to have contributed history to *C. opilio* BSAI crab processing quota share (PQS) allocations under the crab rationalization program. Fifteen of those vessels are floating processors, and thirteen are catcher processors. Under the crab rationalization program, a company that processed crab in 1998 or 1999 (or had a substantial processing history in the Bering Sea *C. opilio* fishery and met an investment requirement) was eligible to receive an allocation of PQS. Any processing vessel owned by a company meeting the eligibility criteria that received deliveries during a fishery's qualifying period (1997 to 1999, inclusive, for Bering Sea *C. opilio*) contributed history toward the company's allocation of PQS in that fishery. In addition, vessels that met the processing eligibility criteria that processed their own catch as catcher processors also were eligible to receive catcher processor QS based on qualified catcher processor history (1996 to 2000, inclusive, for Bering Sea *C. opilio*).

Since catcher processor QS is severable into catcher vessel QS and PQS, any vessel receiving catcher processor QS under the program might be considered to have effectively received PQS. In addition, catcher processor QS was based on crab that was caught and processed, indicating that the vessels operated as a processing platform historically, and could again in the future. This analysis assumes that all 28 processing vessels, whether floaters or catcher processors, fall under the category of affected processing vessels identified in the Council motion.²⁶ Thus, the estimates in this analysis include deliveries to all vessels that contributed history to a PQS allocation in the Bering Sea *C. opilio* fishery or received an allocation of catcher processor QS in the Bering Sea *C. opilio* fishery.

BSAI Amendment 80 CP Sector

NOAA Fisheries completed its determination of the qualifying catcher processor vessels under Amendment 80. The license tied to the Amendment 80 quota, as well as all other LLPs assigned to the qualifying vessel at the time of Amendment 80 program implementation, are restricted from being used by a non-Amendment 80 vessel. Congress determined that the qualification period for Amendment 80 vessels is based on harvests from 1997 through 2002; a total of 28 vessels are qualified for the Amendment 80 program.²⁷ The specific amount of QS that each of these qualified vessels may generate

²⁶Staff presented this issue and asked the Council to clarify if that is not the intent during presentations at both the December 2008 and February 2009 Council meetings. The Council did not indicate a differing intent.

²⁷The non-AFA trawl CP sector (universe of Amendment 80 vessels) was defined by the Consolidated Appropriations Act of 2005, Section 219(a)(7), which required a CP to have harvested with trawl gear and processed not less than a total of 150 mt of non-pollock groundfish during the period January 1, 1997, to December 31, 2002.

was developed by the Council and is based primarily on catch during 1998 through 2004. The list of catcher processors that qualified under Amendment 80 is provided as **Appendix 3**. The 28 licenses originally assigned to the Amendment 80 vessels are listed in the final rule.

The Amendment 80 sector currently has a Pacific cod harvest allocation of 13.4 percent of the BSAI Pacific cod ITAC, and thus is not subject to a harvest sideboard for Pacific cod. Prior to Amendment 85, the trawl CP sectors (AFA and non-AFA) shared a combined allocation of 23.5% of the BSAI Pacific cod ITAC. The non-AFA trawl CP sector received an exclusive allocation of BSAI Pacific cod under Amendment 85, and the majority of those vessels were defined through Congressional action to form the Amendment 80 sector. Amendment 80 created exclusive allocations of Pacific cod, Atka mackerel, AI Pacific ocean perch, flathead sole, Pacific cod, rock sole, and yellowfin sole, and the ability to participate in a cooperative structure, for this CP sector. The Amendment 80 CP sector both targets BSAI Pacific cod and harvests Pacific cod incidentally in its primary flatfish fisheries. All harvest counts toward the sector's allocation.

Note that three vessels that qualified under the Amendment 80 program have subsequently sunk, and one vessel was sold to Russia and cannot re-enter U.S. fisheries. However, on May 19, 2008, in the case *Arctic Sole Seafoods v. Gutierrez*, the Western District of Washington ruled that a qualified owner of an Amendment 80 vessel may “replace a lost vessel with a single substitute vessel.” This ruling would allow a person to replace an Amendment 80 vessel that has suffered an actual total loss, constructive total loss, or permanent ineligibility to receive a fishery endorsement under 46 U.S.C. 12108. Thus, owners can assign their quota share to the license derived from the ‘lost’ vessel, which then can be fished on a designated replacement vessel. For example, a person could replace a ‘lost’ Amendment 80 vessel with another vessel that had historically been active processing AI Pacific cod. In effect, if all vessels submitted applications for Amendment 80 quota share, there could still be a maximum of 28 qualified licenses and 28 vessels.

The Council should clarify whether an Amendment 80 replacement vessel would be subject to the proposed sideboard restriction, or if the restriction is intended to apply only to the list of Amendment 80 vessels originally identified to be used in the fishery (as listed in Table 31 to part 679). Staff currently assumes that the proposed sideboard would apply to the entire Amendment 80 sector, including replacement vessels, as the intent is to limit the rationalized sector as a whole to its historical share of CV Pacific cod deliveries. As a replacement vessel would also be eligible under the Amendment 80 program and able to potentially consolidate processing operations, it does not seem to warrant an exemption from this action.

2.5 Affected catcher vessel sectors

The proposed Pacific cod processing sideboard would apply to Pacific cod harvested in the Eastern and Central AI from all catcher vessel gear types. While the majority of the catcher vessel harvest in the AI is by vessels using trawl gear, the motion proposes to limit CV deliveries of any gear type to the rationalized processing sectors at issue. There are five CV sector allocations. Thus, Pacific cod deliveries to the rationalized processing sectors from catcher vessels prosecuting the following BSAI Pacific cod allocations would be subject to the delivery restriction if they harvested their allocations in Area 541 or 542:

- hook-and-line CV $\geq 60'$ (0.2%)
- jig vessels (1.4%)
- hook-and-line or pot CV $< 60'$ (2.0%)
- pot CV $\geq 60'$ (8.4%)
- trawl CV (includes AFA and non-AFA) (22.1%)

Combined, the CV allocations represent 34.1 percent of the total BSAI Pacific cod ITAC. Staff calculated the sideboard amounts in this analysis based on the amount of Area 541 and 542 cod delivered by catcher vessels of all gear types to the rationalized processing sectors during the qualifying years, converted to a percentage of the total CV catch of Pacific cod in the BSAI.

A brief description of each of the CV sectors is provided below. The type of fishing gear used and vessel length are primarily used to define the sectors, although the AFA trawl catcher vessel sector is also defined by statute. With the exception of the AFA sector, it is important to note that these sectors are not necessarily exclusive—vessels may make landings with more than one gear type and may be eligible to participate in more than one sector.

AFA trawl catcher vessel sector

The AFA trawl CV sector includes all trawl catcher vessels that are issued an AFA permit making them eligible to participate in the directed BSAI pollock fishery. The AFA trawl CV sector is defined under the AFA, and thus the number of eligible participants has been determined and is fairly constant. In 2009, 111 vessels were issued AFA trawl catcher vessel permits. These vessels currently operate in a cooperative system established through the AFA for BSAI pollock. The implementing regulations for the AFA established sideboards on the participation by AFA-qualified vessels in the other BSAI groundfish fisheries, including Pacific cod. Of the 111 AFA CVs, 9 are catcher vessels that deliver to shoreside plants and are exempt from the sideboards. Nineteen additional catcher vessels have a mothership endorsement and are exempt from the sideboards after March 1. The harvest of Pacific cod is also managed through an inter-cooperative agreement. This sector has shared a BSAI Pacific cod allocation with the non-AFA trawl catcher vessel sector since 1997, and is subject to a Pacific cod harvest sideboard. That allocation changed from 23.5% to 22.1% of the BSAI Pacific cod ITAC in 2008, implemented under Amendment 85.

Pollock is the most important fishery for the sector, accounting for most of the retained groundfish landings. Pacific cod has been the second most important species in terms of volume. Some of these vessels also participate in the summer Pacific whiting fishery off the coasts of Oregon and Washington. In addition, some vessels in this category may tender salmon or undergo maintenance in June and July, if they are not engaged in the whiting fishery. The bimodal distribution of groundfish activity of most of the vessels in this sector is a function of the two primary regulatory seasons for pollock—the roe season in the winter and spring and the non-roe season in the summer and fall. Because of the sector's reliance on the pollock resource, the Bering Sea is the most important fishing area. While nearly all of the groundfish harvested by the larger vessels is delivered to shoreside processors, many of the smaller vessels deliver their catch to motherships, and occasionally to catcher processors. The number of vessels in this sector has declined over time as a result of the removal of less efficient vessels.

Non-AFA trawl catcher vessel sector

The non-AFA trawl CV sector includes trawl catcher vessels that are not AFA-eligible to participate in the directed BSAI pollock fishery. Vessels in this sector are typically between 60' and 125', but occasionally vessels <60' or ≥125' participate in this sector. Vessels in this sector need a trawl LLP (CV operating type) to participate in the Federal fisheries. BSAI Amendment 92, a recent Council action to remove latent area endorsements from trawl CV and CP licenses, estimates that upon implementation, a total of 14 non-AFA trawl LLPs would remain endorsed for the BS. That amendment is also estimated to remove 5 of the 6 existing non-AFA trawl LLPs endorsed for the AI, but potentially add up to 12 new AI endorsements on existing LLPs. Thus, the net gain is estimated as a maximum of 7 AI endorsed non-AFA trawl CV LLPs. NMFS published a final rule for this amendment on August 14, 2009 (74 FR 1080), and it is effective September 14, 2009. See Section 2.7 for more detail on BSAI Amendment 92.

The annual cycle of operations of vessels in this sector differs from that of AFA trawl catcher vessels. Differences include the reliance of the non-AFA fleet on the BSAI Pacific cod fishery, the GOA groundfish fishery, and the participation of several vessels in this sector in the halibut IFQ fishery using longline gear. In addition, the smaller vessels in this sector are allowed to participate in the State of Alaska commercial seine fisheries for salmon. Alaska's limited entry program for salmon fisheries established a 58' length limit for seine vessels entering these fisheries after 1976. Many trawl catcher vessels less than 60' were built to be salmon purse seine vessels, while others were designed to function as both trawlers and seiners. This sector has shared a BSAI Pacific cod allocation with the AFA trawl catcher vessel sector since 1997. That allocation changed from 23.5% to 22.1% of the BSAI Pacific cod ITAC in 2008, implemented under Amendment 85.

Pot catcher vessel sector $\geq 60'$ sector

This sector includes all vessels $\geq 60'$ LOA, operating as catcher vessels using pot gear. As of 2003, pot catcher vessels $\geq 60'$ must have a 'Pacific cod pot CV' endorsement on their LLP license to target BSAI Pacific cod with pot gear. As of April 2009, 52 licensed vessels have this endorsement. Of the 52 licenses, all but one is transferable.

The vast majority of vessels in this sector participate primarily in crab and Pacific cod, although some may also participate in the sablefish IFQ fishery. Several of these vessels also have substantial landings with hook-and-line gear. Between 1995 and 2000, participation first declined as *C. opilio* harvests increased, but participation increased sharply starting in 2001 as *C. opilio* levels declined. Pacific cod has been the most important groundfish species in terms of harvest volume, but sablefish accounts for a relatively larger share of ex-vessel value. From mid-2000 through 2003, this sector shared a BSAI Pacific cod allocation with the pot catcher processor sector. This sector has had a separate BSAI Pacific cod allocation since 2004, although until 2008, $<60'$ pot vessels could fish off this allocation when the directed fishery was open. Amendment 85 provided this sector an exclusive allocation,²⁸ which was changed from 7.7% to 8.4% of the BSAI Pacific cod ITAC.

Hook-and-line catcher vessel $\geq 60'$ sector

This sector includes all vessels $\geq 60'$ LOA, operating as a catcher vessel using hook-and-line gear. Most of these vessels fish almost exclusively for sablefish in the IFQ fishery, but also harvest rockfish and Pacific cod. Beginning in 2003, hook-and-line catcher vessels $\geq 60'$ must have a 'Pacific cod hook-and-line CV' endorsement on their LLP license to target BSAI Pacific cod with hook-and-line gear. As of April 2009, 9 licensed vessels carry this endorsement, and all are fully transferable.

These are primarily medium-sized vessels that target halibut and higher priced groundfish, such as sablefish and some rockfish species, mainly in the eastern and central GOA. The general decline in the number of vessels in this sector since 1994 may be the outcome of the IFQ program for the sablefish and halibut hook-and-line fishery. The activities of the sector have generally focused on sablefish and rockfish, although in some years Pacific cod has also been significant. This sector has had a BSAI Pacific cod allocation since mid-2000, although until 2008, $<60'$ hook-and-line vessels could fish off this allocation when the directed fishery was open. Amendment 85 provided this sector an exclusive allocation,²⁹ which was changed from 0.15% to 0.2% of the BSAI Pacific cod ITAC.

²⁸BSAI Amendment 85 (implemented in 2008) modified the Pacific cod allocations such that the $<60'$ hook-and-line and pot CV sector can only fish off its own allocation of 2.0% of the BSAI Pacific cod ITAC.

²⁹BSAI Amendment 85 (implemented in 2008) modified the Pacific cod allocations such that the $<60'$ hook-and-line and pot CV sector can only fish off its own allocation of 2.0% of the BSAI Pacific cod ITAC.

Hook-and-line/pot catcher vessel <60' sector

This sector includes all catcher vessels that are <60' LOA using pot or hook-and-line gear. Vessels in this sector need a non-trawl LLP (CV operating type) to participate in the Federal fisheries, but are not required to have a Pacific cod endorsement to fish in the BSAI Pacific cod fishery. As of April 2009, 112 non-trawl licenses were issued to <60' CVs with BS and/or AI area endorsements, all of which are transferable.

These vessels focus on salmon, halibut, and higher priced groundfish, using a mix of gear types, mainly in the eastern and central GOA. Groundfish harvests decline significantly when these vessels switch to harvesting salmon and halibut. The observed significant decline in vessel numbers after 1994 may be a result of the implementation of the sablefish and halibut hook-and-line fishery IFQ program. High-value sablefish has been the most important groundfish species for this sector. Pacific cod has been the second most important species in terms of volume. This sector has had a separate BSAI Pacific cod allocation since mid-2000, and until 2008, vessels in this sector were allowed to fish off the general pot catcher vessel and hook-and-line catcher vessel BSAI Pacific cod allocations by gear type, respectively, when those directed fisheries were open. Amendment 85 changed this sector's allocation from 0.71% to 2.0% of the BSAI Pacific cod ITAC.

Jig sector

This sector includes all vessels using jig gear. Vessels in this sector do not need an LLP in the BSAI if they are <60' LOA and using no more than five jig machines, one line per machine, and 15 hooks per line. (Note that all vessels <32' LOA operating in the BSAI are exempt from LLP requirements.) While the jig sector is typically comprised only of catcher vessels, one jig vessel operated as a CP in the BSAI Pacific cod fishery many years ago. All harvest by jig vessels (CP or CV) accrues toward the current BSAI Pacific cod jig sector allocation.

Vessels using jig gear typically target Pacific cod and rockfish, but also catch halibut and sablefish. Groundfish catches are important to the vessel operators in this sector, but non-groundfish species such as salmon account for the majority of the total earnings for a large portion of the fleet. The significant decline in the number of jig vessels operating in the Pacific cod fishery after 1994 is assumed to be a result of the implementation of the sablefish and halibut IFQ program. This sector has received a BSAI Pacific cod allocation since 1994, and has been termed a 'start-up' or 'entry-level opportunity' fishery for BSAI Pacific cod. The jig sector annually harvests only a small portion of their allocation, and the remainder is reallocated to other sectors. Amendment 85 changed this sector's allocation from 2.0% to 1.4% of the BSAI Pacific cod ITAC.

2.6 Background

2.6.1 Federal BSAI Pacific cod fishery

The Federal Pacific cod TAC allocations and apportionments approved for 2009 and 2010 are attached as **Appendix 4** for reference. These are the tables included in the groundfish specifications published in the Federal Register to manage the 2009 Pacific cod fishery and the start of the 2010 fishery (see 74 FR 7366, 2/17/09). Note that the 2008 BSAI Pacific cod TAC was 170,720 mt, and the CDQ allocation was 10.7 percent of the TAC, or 18,267 mt. The ITAC referenced in this document is the portion of the TAC allocated to all sectors excluding the CDQ sector. Thus, the 2008 BSAI Pacific cod ITAC was 152,453 mt. The 2009 BSAI Pacific cod TAC increased to 176,540 mt, with an ITAC of 157,650 mt. A table of the BSAI Pacific cod TACs and ITACs from the past ten years is provided below. Note that starting in 2008, the CDQ allocation increased from 7.5% of the BSAI Pacific cod TAC to 10.7%, which accounts for the greater difference between the TAC and the ITAC.

The BSAI Pacific cod ITAC is currently fully distributed among nine harvest sectors, five of which are catcher vessel sectors: hook-and-line CV $\geq 60'$ (0.2%); pot CV $\geq 60'$ (8.4%); hook-and-line or pot CV $< 60'$ (2.0%); trawl CV (22.1%); and jig vessels (1.4%). The CP sectors are: hook-and-line CP (48.7%); pot CP (1.5%); AFA trawl CP (2.3%); and Amendment 80 trawl CP (13.4%). (The Amendment 80 CP sector is further divided between Am. 80 cooperatives and the Am. 80 limited access sector.) The BSAI Pacific cod TAC has been apportioned among different gear sectors since 1994, with the most recent amendment to the allocations effective in 2008 (BSAI Amendment 85). Currently, 34.1 percent of the total non-CDQ allocation of BSAI Pacific cod is to catcher vessel sectors. The majority (22.1 percent of the non-CDQ BSAI Pacific cod TAC) is allocated to the trawl CV sector. For comprehensive information on the history, management, and prosecution of the BSAI Pacific cod allocations, refer to the Secretarial Review Draft EA/RIR/IRFA for BSAI Amendment 85 (NPFMC 2006).

Table 1 BSAI Pacific cod TACs and ITACs, 2000 - 2009

| Year | BSAI Pacific cod TAC (mt) | BSAI Pacific cod ITAC (mt) |
|------|---------------------------|----------------------------|
| 2009 | 176,540 | 157,650 |
| 2008 | 170,720 | 152,453 |
| 2007 | 170,720 | 157,916 |
| 2006 | 188,180 | 174,067 |
| 2005 | 206,000 | 190,550 |
| 2004 | 215,500 | 199,338 |
| 2003 | 207,500 | 191,938 |
| 2002 | 200,000 | 185,000 |
| 2001 | 188,000 | 173,900 |
| 2000 | 193,000 | 178,525 |

Source: <http://www.fakr.noaa.gov/sustainablefisheries/2000harvestspecs.htm>

Note that there continues to be one combined BSAI Pacific cod TAC, although the Council previously considered different methodologies by which to maintain sector allocations should the BSAI Pacific cod TAC be apportioned between the BS and the AI during a future harvest specifications process. The issue of whether to split the combined TAC has been raised at Plan Team, SSC, and Council meetings during the last several years, with recognition that management implications complicate the issue of adopting separate area TACs in the near future. At its April 2010 meeting, the Council is scheduled to discuss potential timing for an analysis of alternatives to divide sector allocations between the BS and AI, should a TAC split occur in a future specifications process. This discussion was scheduled for April 2010, in order to coincide with the Council's review of the new Steller sea lion biological opinion, which includes a review of the commercial BSAI Pacific cod fishery. This is discussed in more detail in Section 2.7.

The first tables provide background information on the BSAI Pacific cod for reference. Tables 2 through 4 are intended to provide context regarding the share of retained Pacific cod harvest that each sector has realized in the past nine years, in both the BSAI overall and in Areas 541 and 542 only. These tables represent retained harvest by sector; thus, the CV data include all CV harvest, regardless of whether the landings were made to shoreside plants, motherships, CPs, etc. The CP data includes only landings caught and processed by the same vessel, and thus does not include Pacific cod that was delivered by CVs to CPs acting as motherships. **The amount of Pacific cod harvested by CVs and delivered to the mothership/CP sectors, which is the central issue of the proposed action, is provided further in the RIR.**

Table 2 shows retained harvest of Pacific cod in the BSAI by year and operating type (CP or CV), from 2000 through 2009. The 2009 data are preliminary and only through week-ending date June 20, 2009. Note that this table does not include CDQ harvest or harvests from the State water Pacific cod fishery in

the AI, as those fisheries would not be affected by the proposed action. This table provides information on how much of the retained BSAI Pacific cod harvest is attributed to catcher processors, broken out by the rationalized sectors at issue and ‘other catcher processors/motherships’. It also shows the amount of Pacific cod harvest attributed to catcher vessels, which may deliver to vessels acting as motherships, stationary floating processors, or shoreside processors.

Table 2 includes harvest from any gear type, although the vast majority is from vessels using hook-and-line CPs or trawl gear. All gear types are included, as the proposed action does not differentiate between gear types. The harvest of BSAI Pacific cod has been relatively stable during this time period, with TACs around 200,000 mt until 2007. During this period, total retained harvest reached a low of about 146,000 mt (2008) and a high of about 194,000 mt (2004).

The majority of the BSAI Pacific cod harvest has been by CPs, most notably hook-and-line CPs, which are represented under the ‘other CP/mothership’ category. Of the three rationalized sectors at issue, the Amendment 80 sector has caught and processed the majority of Pacific cod, ranging from about 10.6% to 21.4% annually during this time period. Note that the lowest year during this time period is 2008, the first year in which new Pacific cod allocations were implemented under BSAI Amendment 85 (2009 data are only through June 20). As stated previously, the non-AFA trawl CP (Amendment 80) sector was allocated 13.4% of the total BSAI Pacific cod ITAC under Amendment 85. Thus, in recent years, the Amendment 80 sector has been harvesting a greater share than it was allocated under Amendment 85. The level of Pacific cod allocation to the Amendment 80 sector has been cited as one of the primary reasons that the Amendment 80 sector would like to continue to have the ability to act as motherships in the AI cod fishery.

The AFA CP sector has harvested and processed an estimated 1.7% to 3.5% annually; this sector is allocated 2.3% of the BSAI Pacific cod ITAC under Amendment 85. In both the AFA and Amendment 80 CP sectors, the Pacific cod allocation is used toward a directed fishery and incidental catch in other directed fisheries. Processing vessels eligible under crab rationalization also harvested and processed an estimated 3.7% to 6.7%. This harvest was attributed to relatively few vessels (5 to 8 annually). While this sector does not receive an exclusive allocation of Pacific cod, the pot CP sector is allocated 1.5% of the BSAI Pacific cod ITAC.

Pacific cod CV harvest has also been relatively steady, with a high of over 65,000 mt in 2003. Catcher vessel harvest comprised about 21% to 34% annually, and 32% in 2008. Recall that under Amendment 85, the CV sectors receive an allocation of 34.1% of the BSAI Pacific cod ITAC.

Table 2 Retained harvest of BSAI Pacific cod, 2000 – 2009

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

Table 2 continued.

| Year | Harvest sector ¹ | Processing sector | vessels | tons | % of BSAI |
|------------------------------|-----------------------------|-------------------|---------|---------|-----------|
| 2006 | CP | AFA | 17 | 5,960 | 3.5% |
| | | Am80 | 22 | 28,700 | 16.7% |
| | | Crab | 6 | 10,068 | 5.9% |
| | | Other CP | 36 | 77,132 | 44.8% |
| | | Total | 81 | 121,860 | 70.8% |
| | CV | Total | 217 | 50,240 | 29.2% |
| 2007 | CP | AFA | 17 | 4,554 | 2.9% |
| | | Am80 | 22 | 33,182 | 21.4% |
| | | Crab | 6 | 9,449 | 6.1% |
| | | Other CP | 34 | 61,337 | 39.5% |
| | | Total | 79 | 108,521 | 69.9% |
| | CV | Total | 229 | 46,753 | 30.1% |
| 2008 | CP | AFA | 17 | 4,598 | 3.1% |
| | | Am80 | 22 | 15,437 | 10.6% |
| | | Crab | 6 | 8,934 | 6.1% |
| | | Other CP | 37 | 69,699 | 47.7% |
| | | Total | 82 | 98,668 | 67.6% |
| | CV | Total | 236 | 47,360 | 32.4% |
| 2009 (through 6/20/09) | CP | AFA | 13 | 3,866 | 4.1% |
| | | Am80 | 20 | 9,114 | 9.7% |
| | | Crab | 6 | 5,195 | 5.5% |
| | | Other CP | 36 | 36,681 | 39.0% |
| | | Total | 75 | 54,856 | 58.3% |
| | CV | Total | 167 | 39,260 | 41.7% |

Source: NMFS blend/catch accounting database, 2000 – 2009. 2009 data are preliminary, and include harvest through week-ending date 6/20/09.

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

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

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

Table 3 Retained harvest of Pacific cod from the Eastern and Central AI, 2000 – 2009

| Year | Harvest Sector ¹ | # vessels | Eastern & Central AI tons | Percent AI/BSAI |
|------|-----------------------------|-----------|---------------------------|-----------------|
| 2000 | CP | 41 | 14,486 | 13% |
| | CV | n/a | 13,761 | 24% |
| | Total | | 28,246 | 16% |
| 2001 | CP | 33 | 13,896 | 11% |
| | CV | n/a | 6,804 | 19% |
| | Total | | 20,700 | 13% |
| 2002 | CP | 28 | 11,847 | 9% |
| | CV | n/a | 15,184 | 28% |
| | Total | | 27,031 | 15% |
| 2003 | CP | 25 | 11,751 | 9% |
| | CV | 56 | 17,242 | 26% |
| | Total | | 28,993 | 15% |
| 2004 | CP | 23 | 11,158 | 8% |
| | CV | 38 | 13,498 | 24% |
| | Total | | 24,656 | 13% |
| 2005 | CP | 20 | 9,215 | 7% |
| | CV | 33 | 8,000 | 16% |
| | Total | | 17,215 | 9% |
| 2006 | CP | 24 | 7,334* | 6%* |
| | CV | 42 | 6,201 | 12% |
| | Total | | 13,536* | 8%* |
| 2007 | CP | 24 | 10,636 | 10% |
| | CV | 54 | 12,301 | 26% |
| | Total | | 22,937 | 15% |
| 2008 | CP | 24 | 5,565* | 6%* |
| | CV | 65 | 11,279 | 24% |
| | Total | | 16,844* | 12%* |
| 2009 | CP | 18 | 4,501* | 10%* |
| | CV | 34 | 12,078 | 31% |
| | Total | | 16,579* | 19%* |

Source: NMFS blend/catch accounting database, 2000 - 2009. 2009 data are preliminary, and include harvest through week-ending date 6/20/09. Retained catch only. Excludes CDQ harvest and State-managed AI P. cod fishery.

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

*Totals (2006, 2008, and 2009) do not include all harvest data for the CP sectors, due to confidentiality issues when combined with Table 4.

Table 3 shows the retained harvest of Pacific cod in Areas 541 and 542 (Eastern and Central AI, respectively) by year and operating type (CP or CV), from 2000 through June 20, 2009. The last column of Table 3 provides the percentage of total retained BSAI Pacific cod harvest attributed to the Eastern and Central AI, from a low of 8% in 2006 to a high of 19% in 2009 (preliminary data). Note that a higher percentage of the total annual CV harvest (12% - 31%) was from the Eastern and Central AI during this time period, compared to the CP sectors (6% - 13%). Like the previous table, Table 3 does not include CDQ harvest or harvest from the AI State water Pacific cod fishery.

Note also that Table 3 excludes some harvest data for the CP sectors (and thus, the totals) for 2006, 2008, and 2009. This was done in order to preserve confidentiality for the AFA CP sector in 2006 and 2008 when comparing Table 3 and Table 4. In 2009, it was done to preserve confidentiality for both the AFA sector and crab sector when comparing Table 3 and Table 4. Exclusion of these data does not misrepresent the general results, except that the resulting Area 541/542 harvest as a percentage of BSAI harvest is skewed slightly high.

Table 4 Retained harvest of Pacific cod from the Eastern and Central AI, by rationalized CP sector, 2000 – 2009

| Year | Harvest Sector ¹ | Processing sector | # vessels | tons | % of AI |
|------------|-----------------------------|-------------------|-----------|--------|---------|
| 2000 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 12 | 4,897 | 17.3% |
| | | Crab | 4 | 915 | 3.2% |
| | | Other CP | 22 | 6,821 | 24.1% |
| | | Other mothership | 1 | conf. | conf. |
| | CV | | n/a | 13,761 | 48.7% |
| 2000 Total | | | | 28,246 | 100% |
| 2001 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 11 | 5,442 | 26.3% |
| | | Crab | 2 | conf. | conf. |
| | | Other CP | 18 | 6,186 | 29.9% |
| | | Other Mothership | 1 | conf. | conf. |
| | CV | | n/a | 6,804 | 32.9% |
| 2001 Total | | | | 20,700 | 100% |
| 2002 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 12 | 8,951 | 33.1% |
| | | Crab | 1 | conf. | conf. |
| | | Other CP | 14 | 1,558 | 5.8% |
| | | | CV | | n/a |
| 2002 Total | | | | 27,031 | 100% |
| 2003 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 13 | 9,341 | 32.2% |
| | | Crab | 2 | conf. | conf. |
| | | Other CP | 9 | 125 | 0.4% |
| | | | CV | | 56 |
| 2003 Total | | | | 28,993 | 100% |
| 2004 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 14 | 7,456 | 30.2% |
| | | Crab | 1 | conf. | conf. |
| | | Other CP | 7 | 2,123 | 8.6% |
| | | | CV | | 38 |
| 2004 Total | | | | 24,656 | 100% |
| 2005 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 12 | 5,511 | 32.0% |
| | | Crab | 2 | conf. | conf. |
| | | Other CP | 5 | 369 | 2.1% |
| | | | CV | | 33 |
| 2005 Total | | | | 17,215 | 100% |

Table 4 continued.

| Year | Harvest Sector ¹ | Processing sector | # vessels | tons | % of AI |
|---------------------|-----------------------------|-------------------|-----------|---------|---------|
| 2006 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 14 | 5,416 | 40.0% |
| | | Crab | 3 | 1,060 | 7.8% |
| | | Other CP | 6 | 859 | 6.3% |
| | CV | | 40 | 6,201 | 45.8% |
| 2006 Total | | | | 13,536* | 100%* |
| 2007 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 15 | 8,550 | 37.3% |
| | | Crab | 1 | conf. | conf. |
| | | Other CP | 7 | 730 | 3.2% |
| | CV | | 53 | 12,301 | 53.6% |
| 2007 Total | | | | 22,937 | 100% |
| 2008 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 10 | 2,296 | 13.6% |
| | | Crab | 3 | 969 | 5.8% |
| | | Other CP | 10 | 2,300 | 13.7% |
| | CV | | 65 | 11,279 | 67.0% |
| 2008 Total | | | | 16,845* | 100%* |
| 2009 (thru 6/20) | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 10 | 2,711 | 16.4% |
| | | Crab | 1 | conf. | conf. |
| | | Other CP | 6 | 1,790 | 11% |
| | CV | | 34 | 12,078 | 72.9% |
| 2009 Total | | | | 16,579* | 100%* |

Source: NMFS blend/catch accounting database, 2000 - 2009. 2009 data are preliminary, and include harvest through week-ending date 6/20/09. Retained catch only. Excludes CDQ harvest and State-managed AI P. cod fishery.

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

*Totals (2006, 2008, and 2009) do not include all harvest data, due to confidentiality issues.

Table 4 provides the retained harvest of Pacific cod in Areas 541 and 542 (Eastern and Central AI, respectively) by year and operating type (CP or CV), from 2000 through June 20, 2009. Table 4 also breaks out the CP sectors by rationalized sector (AFA, Amendment 80, and crab) and ‘other CP’ or ‘other mothership’ sector, as requested by the Council. The data in Table 4 are provided for Areas 541 and 542 combined, as a substantial portion of the data is confidential if broken out separately by area.

Note that the AFA sector’s harvest and processing data are confidential in Table 4, as only one AFA CP has participated in the Pacific cod fishery in Area 541 and 542 in recent years. Other sectors also have confidential data that cannot be provided. With the exception of 2006, 2008, and 2009, all of the totals by year can be provided. For 2006, 2008, and 2009, the ‘total’ columns exclude confidential data, thus, the percentages will be necessarily be slightly skewed.

The last column of Table 4 provides the percentage of retained Area 541/542 Pacific cod harvest attributed to each sector. The CV sector harvested about half of the Pacific cod harvest from Areas 541/542 each year, with the exception of 2008, in which the CV sector harvested about 67% of the total Area 541/542 cod harvest. (Note that 2008 is one of the years in which confidential data from the AFA CP sector is excluded, however.) Recall that the 2009 data are not complete; data are only provided through June 20, 2009.

Table 5 Number of catcher vessels that retained Pacific cod from the Eastern and Central AI, by gear type and processing sector, 2000 – 2009

| Year | Harvest Sector | Processing sector | Gear type | # vessels | # plants |
|------|----------------|-------------------|-----------|-----------|----------|
| 2000 | CV | AFA | Trawl | | 1 |
| | | Crab | Longline | | 1 |
| | | Crab | Pot | | 2 |
| | | Crab | Trawl | | 2 |
| | | Other Mothership | Longline | | 1 |
| | | Other Mothership | Pot | | 1 |
| | | Shoreside | Longline | | 5 |
| | | Shoreside | Jig | | 1 |
| | | Shoreside | Pot | | 6 |
| | | Shoreside | Trawl | | 6 |
| 2001 | CV | AFA | Trawl | | 1 |
| | | Crab | Trawl | | 1 |
| | | Other Mothership | Trawl | | 1 |
| | | Shoreside | Longline | | 5 |
| | | Shoreside | Jig | | 2 |
| | | Shoreside | Pot | | 3 |
| | | Shoreside | Trawl | | 4 |
| 2002 | CV | AFA | Trawl | | 1 |
| | | Crab | Trawl | | 2 |
| | | Other Mothership | Trawl | | 1 |
| | | Shoreside | Longline | | 2 |
| | | Shoreside | Jig | | 1 |
| | | Shoreside | Trawl | | 3 |
| 2003 | CV | AFA | Trawl | 3 | 1 |
| | | Crab | Trawl | 15 | 2 |
| | | Shoreside | Longline | 23 | 6 |
| | | Shoreside | Jig | 1 | 1 |
| | | Shoreside | Trawl | 23 | 5 |
| 2004 | CV | AFA | Trawl | 2 | 1 |
| | | Am80 | Trawl | 1 | 1 |
| | | Crab | Trawl | 9 | 2 |
| | | Shoreside | Longline | 17 | 6 |
| | | Shoreside | Trawl | 13 | 2 |
| 2005 | CV | AFA | Trawl | 2 | 1 |
| | | Crab | Trawl | 7 | 2 |
| | | Shoreside | Longline | 17 | 4 |
| | | Shoreside | Jig | 2 | 1 |
| | | Shoreside | Trawl | 8 | 2 |
| 2006 | CV | AFA | Trawl | 2 | 1 |
| | | Crab | Trawl | 7 | 2 |
| | | Other Mothership | Pot | 2 | 1 |
| | | Shoreside | Longline | 22 | 6 |
| | | Shoreside | Jig | 1 | 1 |
| | | Shoreside | Pot | 2 | 1 |
| | | Shoreside | Trawl | 10 | 2 |

Table 5 continued.

| Year | Harvest Sector | Processing sector | Gear type | # vessels | # plants |
|-----------|----------------|-------------------|-----------|-----------|----------|
| 2007 | CV | AFA | Trawl | 2 | 1 |
| | | Am80 | Trawl | 3 | 1 |
| | | Crab | Trawl | 8 | 2 |
| | | Other Mothership | Pot | 2 | 1 |
| | | Shoreside | Longline | 17 | 4 |
| | | Shoreside | Jig | 1 | 1 |
| | | Shoreside | Pot | 1 | 1 |
| | | Shoreside | Trawl | 26 | 5 |
| 2008 | CV | AFA | Trawl | 3 | 1 |
| | | Am80 | Trawl | 5 | 2 |
| | | Crab | Trawl | 15 | 3 |
| | | Shoreside | Longline | 27 | 8 |
| | | Shoreside | Jig | 9 | 1 |
| | | Shoreside | Pot | 1 | 1 |
| | | Shoreside | Trawl | 22 | 3 |
| | | 2009 | CV | AFA | Trawl |
| Am80 | Trawl | | | 1 | 1 |
| Crab | Trawl | | | 7 | 2 |
| Shoreside | Longline | | | 4 | 3 |
| Shoreside | Jig | | | 1 | 1 |
| Shoreside | Trawl | | | 21 | 2 |

Source: NMFS blend/catch accounting database, 2000 - 2009. 2009 data are preliminary, and include harvest through week-ending date 6/20/09. Retained catch only. Excludes CDQ harvest and State-managed AI P. cod fishery. Note: Unique CV counts in these data are not reliable prior to 2003. Note: Metric tons are not provided, due to confidentiality rules.

Table 5 provides information on the number of catcher vessels that harvested Pacific cod from Areas 541 and 542, by year, gear type, and the processing sector to which the vessel delivered, from 2000 through June 20, 2009. Table 5 also breaks out the processing sectors by rationalized sector (AFA, Amendment 80, and crab), ‘other mothership’, and the shoreside sector. The data are provided for Areas 541 and 542 combined, and the harvest data are not provided, as the majority of the data are confidential, due to the limited number of processors.

Table 5 shows what type of vessel is delivering to each of the specified processing sectors. **With the exception of the year 2000, all of the CV cod deliveries to the rationalized sectors have been from catcher vessels using trawl gear.** The “other mothership” sector has received deliveries from trawl, hook-and-line, and pot vessels, but has had very limited activity during this timeframe. The shoreside sector has received deliveries from catcher vessels using trawl, hook-and-line, pot, and jig gear throughout this time period, with the majority of those vessels being trawl or hook-and-line.

Table 6 below condenses the data in Table 5, in order to show the amount of harvest by catcher vessels harvesting Pacific cod in Areas 541 and 542, by gear type and general processing sector. Due to confidentiality issues, the processing sectors are broken out by rationalized sector (combined: AFA, Amendment 80, crab) and shoreside sector. In some years, harvest delivered to ‘other’ motherships or CPs – those not in one of the rationalized sectors – is included with the shoreside sector. This table shows that the majority of the CV cod harvest from these areas is delivered shoreside, and by vessels using trawl gear. Hook-and-line, pot, and jig gear contributed smaller harvest amounts during this time period, which were also delivered shoreside. Both Table 5 and Table 6 can be used to characterize the type of catcher vessels that may be affected by the proposed action to limit Pacific cod deliveries of cod harvested in Areas 541 and 542 to the rationalized processing sectors. In sum, while all CV gear types would be subject to the proposed sideboard limit, in practice, only trawl CVs have been delivering to the rationalized processing sectors in the past decade.

Table 6 Retained Pacific cod CV harvest from the Eastern and Central AI, by gear type and processing sector, 2000 – 2009

| Year | Harvest Sector | Processing sector | Gear type | Metric tons |
|---------------------|----------------|---------------------|--------------------|-------------|
| 2000 | CV | Rationalized sector | Trawl | 4,946 |
| | | Shoreside | Trawl | 6,193 |
| | | Rationalized sector | Pot | conf. |
| | | Shoreside/other MS | Pot/jig | 1,310 |
| 2001 | CV | Rationalized sector | Longline | conf. |
| | | Shoreside/other MS | Longline | 276 |
| | | Rationalized sector | Trawl | conf. |
| 2002 | CV | Shoreside/other MS | Trawl | 3,970 |
| | | Shoreside/other MS | Longline | 103 |
| | | Shoreside/other MS | Pot/jig | 105 |
| 2003 | CV | Rationalized sector | Trawl | 5,508 |
| | | Shoreside/other MS | Trawl | 9,648 |
| | | Shoreside | Longline/jig | 28 |
| 2004 | CV | Rationalized sector | Trawl | 8,209 |
| | | Shoreside | Trawl | 9,000 |
| | | Shoreside | Longline/jig | 33 |
| 2005 | CV | Rationalized sector | Trawl | 4,153 |
| | | Shoreside | Trawl/longline | 9,345 |
| 2006 | CV | Rationalized sector | Trawl | 1,521 |
| | | Shoreside | Trawl/longline/jig | 6,478 |
| 2007 | CV | Rationalized sector | Trawl | 1,233 |
| | | Shoreside/other MS | All | 4,969 |
| | | Rationalized sector | Trawl | 2,058 |
| | | Shoreside | Trawl | 10,055 |
| 2008 | CV | Shoreside/other MS | Pot/jig | 153 |
| | | Shoreside | Longline | 36 |
| | | Rationalized sector | Trawl | 6,514 |
| 2009 (thru 6/20) | CV | Shoreside | Trawl | 4,359 |
| | | Shoreside | Longline/pot/jig | 406 |
| | | Shoreside | Longline/jig | conf. |

Source: NMFS blend/catch accounting database, 2000 - 2009. 2009 data are preliminary, and include harvest through week-ending date 6/20/09. Retained catch only. Excludes CDQ harvest and State-managed AI P. cod fishery. Conf = Metric tons are not provided, due to confidentiality rules.

Note also that the BSAI Pacific cod allocations are seasonally allocated for each gear sector, with the exception of the hook-and-line/pot <60' sector. Refer to Appendix 4 for the current seasonal apportionments for each sector. With the exception of the jig sector, unharvested seasonal allocations roll to the sector's next season within the same year. The temporal dispersion measures in the BSAI Pacific cod fishery, primarily a result of the 2001 Biological Opinion on Steller sea lions, were established to meet a seasonal target of 70% harvest in the first half of the year (January 1 – June 10) and 30% in the second half (June 10 – December 31). The objective is to limit the amount of total cod harvest that could be taken in the first half of the year, in order to disperse the harvest of cod throughout the year, in consideration of foraging sea lions.

Note that a new Biological Opinion is currently being developed by NMFS, Protected Resources Division, and is scheduled for release in March 2010. The Council is scheduled to review the opinion at its April 2010 meeting. This Biological Opinion consults, among other things, on the effect of the existing (status quo) Pacific cod fishery on Steller sea lions. Any proposed changes to the existing Pacific cod fishery would require either an informal or formal consultation with Protected Resources. This issue is discussed in more detail in Section 2.7.

2009 catcher vessel A season (preliminary data)

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

Table 7 Length of BSAI Pacific cod A seasons, by catcher vessel gear type, 2001 - 2009

| Year | BSAI trawl CV (days) | BSAI pot CV ≥60' (days) | BSAI H&L CV ≥60' (days) |
|------|----------------------|-------------------------|-------------------------|
| 2009 | 61 | 32 | 305* |
| 2008 | 46 | 18 | 240* |
| 2007 | 51 | 26 | 52 |
| 2006 | 47 | 34 | 55 |
| 2005 | 52 | 44 | 69 |
| 2004 | 63 | 46 | 77 |
| 2003 | 72 | 57 | 87 |
| 2002 | 72 | 75 | 161* |
| 2001 | 72 | 86 | 86 |

Source: NOAA Fisheries, RAM Division.

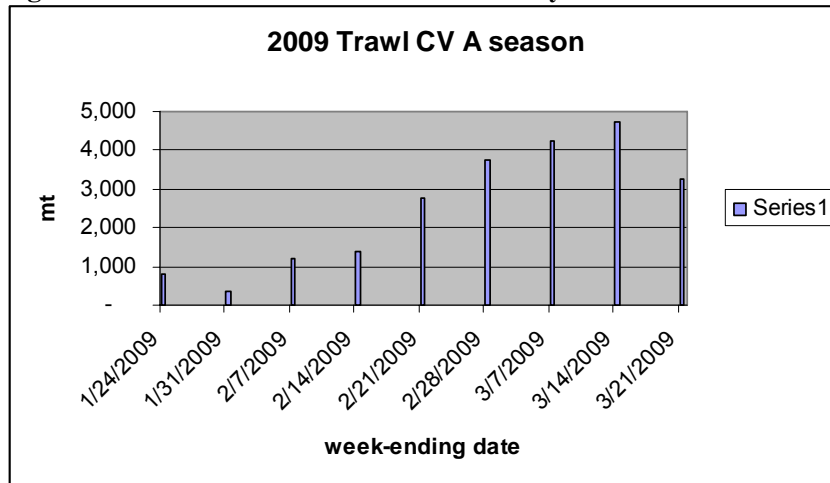
Note: The <60' hook-and-line/pot CV allocation is not seasonally allocated, and thus not shown in this table.

*Closures were due to reaching the A season TAC, with these exceptions. The 2002 H&L ≥60' A season stayed open until June 10, at which point there was no more halibut mortality allocated to the H&L sector until August 15. In 2008, the H&L ≥60' stayed open until August 28 with no participation, so the allocation was reallocated to other sectors (<60' fixed gear and jig gear sectors). In 2009, the H&L ≥60' stayed open until late October with no participation, so the allocation was reallocated to the H&L CP sectors.

Recently, the A season for BSAI trawl CV cod, which starts January 20, has been open less than 2 months, closing around early March (see Table 7). The 2009 fishery was a slight exception to recent years, with the A season closing March 21. (Note that the B season opened shortly afterward, on April 1). NMFS reported that fewer vessels (about half compared to 2008) participated in the first weeks of the fishery. In the first several weeks, 18 to 20 trawl CVs participated in any given week, while a range of 24 to 33 vessels fished the remainder of the A season. By comparison, in 2008, 27 to 51 trawl vessels participated in any given week in the A season. The estimates of halibut mortality were relatively high in

the 2009 A season, so a portion of the fleet ‘stood down’ to wait for lower halibut rates. Note also that in 2008, high ex-vessel cod prices may have attracted more vessels, while the 2009 prices reported are about half compared to 2008. Catch rates increased in late February and March as the AI fishery picked up.³⁰ The figure below shows trawl CV catch by week-ending date in the 2009 BSAI Pacific cod trawl CV A season. Preliminary data from NMFS indicate that the trawl CV sector harvested over 25,000 mt in the 2009 A season.

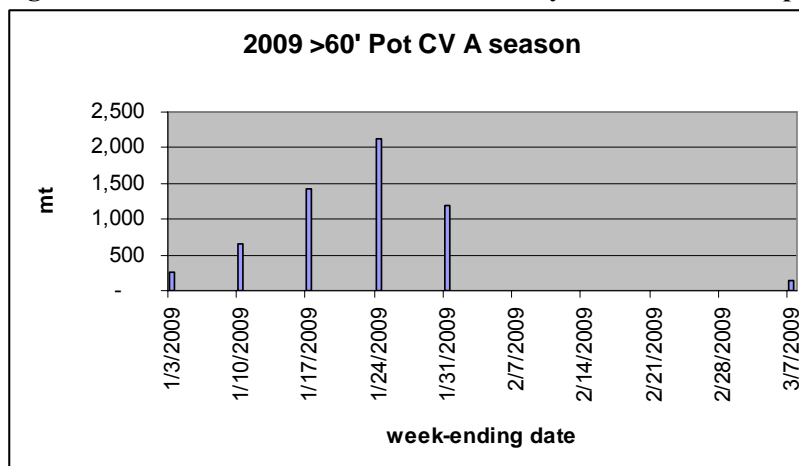
Figure 2 2009 BSAI Pacific cod harvest by week in the trawl CV A season



Source: Preliminary 2009 data, NMFS catch accounting database, as of 4/22/09.

Specific to Areas 541 and 542, the trawl CV sector harvested about 11,000 mt from those areas combined during the A season, which comprised about 44% of their total BSAI Pacific cod A season catch. (The vast majority of the trawl CV cod harvested from the AI was from Area 541.) This is similar to the level and percentage of harvest taken from Areas 541 and 542 in 2008. As of June 20, 2009, the trawl CV sector had delivered an estimated 3,461 mt of Pacific cod harvested in Areas 541 and 542 to the rationalized processing sectors, and 8,610 mt to shoreside processors. This represents 29% and 71% of the harvest thus far, respectively. Note that while this includes some B season harvest, the majority is from the A season.

Figure 3 2009 BSAI Pacific cod harvest by week in the ≥60' pot CV A season



Source: Preliminary 2009 data, NMFS catch accounting database, as of 4/22/09.

³⁰Personal communication and data from M. Furuness, NMFS Sustainable Fisheries Division, 4/17/09.

The $\geq 60'$ pot CV A season is also relatively short. The season opens on January 1 for pot and hook-and-line gear, and the $\geq 60'$ pot CV A season has closed during mid-January to mid-February in the past several years. In 2009, it closed on February 1, and was reopened on March 1 in order to harvest the entire A season TAC. Harvest after the week-ending date March 7 is confidential, as only one vessel remained fishing. Figure 3 shows the $\geq 60'$ pot CV catch by week-ending date in the 2009 BSAI Pacific cod A season. Preliminary data from NMFS reports that the $\geq 60'$ pot CV sector harvested over 6,200 mt in the 2009 BSAI Pacific cod A season, none of which was harvested in Area 541 or 542 (as of July 4, 2009).

The $\geq 60'$ hook-and-line CV A season is longer than either the trawl or pot seasons, as few vessels target this relatively small allocation. In 2008, no vessels had participated by August 28, so the $\geq 60'$ hook-and-line unused allocation was reallocated to the $< 60'$ fixed gear and jig gear sectors. One $\geq 60'$ hook-and-line vessel participated later in the year. As of November 2, 2009, no vessels had participated in this cod sector and the fishery was closed. The vast majority of this sector's allocation was reallocated in late October.

As stated previously, relatively little of the BSAI Pacific cod jig sector allocation is harvested annually. In 2009, no jig vessels had participated in the cod sector A season (January 20 – April 30). The unused jig quota was allocated to the $< 60'$ hook-and-line/pot CV sector in early March in order to harvest the entire A season quota and allow the $< 60'$ hook-and-line/pot CV sector to continue fishing. Recall that the $< 60'$ fixed gear sector does not have seasonal allocations. This sector had harvested its entire 2009 allocation (3,137 mt) and almost the entire jig reallocation (1,200 mt) by mid-April 2009. One $< 60'$ fixed gear vessel had limited Pacific cod harvest in Area 541. A second reallocation from the jig sector for the B season (400 mt) to the $< 60'$ hook-and-line/pot CV sector occurred on April 27. Finally, two more jig reallocations occurred during the C season on September 16 (550 mt) and October 29 (32 mt). Only three jig vessels participated in 2009, during the B season.

2.6.2 State-managed AI Pacific cod fishery

As stated previously, the proposed action would not affect the State-managed Pacific cod fishery that occurs in State waters in the AI. This fishery was established by the Alaska Board of Fisheries (BOF) in 2006, and comprises 3% of the Federal BSAI Pacific cod ABC. This fishery is managed by the State and has different sector requirements and seasons than the Federal Pacific cod fishery. While the harvests in this fishery are not used to calculate the proposed options for cod processing sideboards, it is important to understand some background on how this fishery operates, as the Pacific cod prosecuted in this fishery are harvested by both CVs and CPs, and the CV harvest is delivered both shoreside and to floating processors/motherships. Thus, the State water AI cod fishery contributes to the necessary context in which to consider the proposed action.

Restrictions on the State water AI Pacific cod fishery have changed since 2006. New vessel size limits were adopted by the BOF in October 2006, and the original trip limit was lowered. These changes were adopted in part in an effort to slow the pace of the fishery during the A season (the portion of the GHL available before June 10). In addition, a regulation which allowed unharvested State waters Pacific cod to be reallocated back to the Federal fishery was repealed, thus there is no 'rollover' back to the Federal fishery if the State waters allocation is not completely harvested.

Note that the Council was also interested in the recent results of an Alaska Board of Fisheries (Board) meeting on December 31, 2008, prior to initiating a formal analysis of this action. Specifically, the Council noted interest in Board Proposals 371 and 372 to modify the State water AI Pacific cod fishery, both of which were proposed by the Aleut Enterprise LLC. At its December meeting, the Board took action on Proposal 371 to establish a vessel size limit of 60 feet for all gear types in the State waters AI

Pacific cod fishery. While the original proposal requested this change for both the A and B season, the proponents subsequently supported, and the Board recommended, that this action apply only to the B season (opens June 10). The intent is to provide additional opportunity for a relatively new, local, small boat fleet in Adak by preventing larger vessels from prosecuting this fishery later in the year.

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

The current primary elements of this fishery include:

1. The guideline harvest level (GHL) for the state waters fishery will be an amount calculated as 3% of the Federal BSAI Pacific cod ABC. The future calculation (the "source" of the GHL) will be the Council's decision should the BSAI ABC be split into separate AI and BS ABCs in a future TAC specifications process.
2. The A season opening date may occur four days after the closure of the initial parallel catcher-vessel trawl fishery for Pacific cod in the Federal BSAI area. The B season opens on June 10. All parallel Pacific cod fishery sectors are closed during the state-waters fishery.
3. Legal fishing gear will be pot, jig, hand troll, non-pelagic trawl, and longline gear.
4. Vessels utilizing non-pelagic trawl gear in state-waters fishery are restricted to 100 feet in overall length or less. Vessels utilizing mechanical jig and longline gear in the state-waters fishery are restricted to 58 feet in overall length or less. Finally, vessels utilizing pot gear are restricted to 125 feet overall length or less. [Note: Vessel size limits were recently amended by the Board for the B season to 60 feet or less for all gear types. See the rest of this section.]
5. A maximum of 70% of the GHL may be harvested prior to June 10 (A season). Any unharvested GHL that has not been harvested by April 1 will be made available in the parallel fishery, which opens after the closure of the state-water fishery. If adequate state-waters GHL remains after the closure of the parallel fishery, then the state-waters fishery may reopen prior to June 10.
6. Any unharvested 'A' season GHL will be rolled into the "B" season opening on June 10. A total of 30% of the GHL plus the unharvested amount from the prior season up to a maximum of 70% will be available for the "B" season. If the GHL has not been achieved by September 1, the B season will close and the AI will reopen to parallel fishing. If adequate GHL remains the B season will reopen after the B season federal BSAI Pacific cod over 60' pot CV sector closes.
7. The fishery requires registration with ADF&G of the type of gear to be used.
8. The daily trip limit is 150,000 lbs of Pacific cod; there is also a limit of up to 150,000 lbs of unprocessed Pacific cod onboard the vessel. A vessel may not have more processed fish onboard than the round weight equivalent of the fish reported on ADF&G fishtickets during the AI state waters Pacific cod fishery. Participants must notify ADF&G daily of the amount harvested and the total amount on board.
9. All Pacific cod harvested must be retained. If a participant harvests an amount in excess of the daily trip limit, that excess amount of product must be forfeited to the State.
10. The Commissioner of ADF&G may impose bycatch limitations or retention requirements.

With the inception of the State waters Pacific cod fishery in the Aleutian Islands, all sectors, including the CDQ fishery, realized a proportional reduction of 3% of their Federal BSAI allocations starting in 2006. The intent of the State fishery is to allow additional harvests by the identified sectors in AI State waters, which also results in a redistribution of cod harvests and associated revenues from vessels of all gear types that fish in Federal waters in the AI or in the Bering Sea, and from ports east of 170° W to those vessels that fish in the State water AI fishery. Thus, there may be a disproportionate negative effect on those participants that do not desire to fish in State waters in the Aleutian Islands, compared to those participants that have harvested and want to continue to harvest Pacific cod in the Aleutians and within State waters.

During the first three years of this fishery, the majority of the harvest has been taken by trawl gear, with pot gear being the second primary gear type used. In the 2009 A season, the vast majority of the harvest was taken by pot gear. In general, the fixed gear and jig gear sectors have reduced the AI share of their total BSAI Pacific cod harvest in recent years. Regarding operation type, the majority has been harvested by catcher vessels, with the exception of the 2009 A season, in which the majority was harvested by catcher processors. Regarding catcher vessel deliveries, more cod was delivered to floating processors than shorebased processors in 2006 and 2008, while shorebased plants processed the majority in 2007 and 2009 (A season). Harvest data on the State water AI Pacific cod fishery, by gear and processing type, are provided in **Appendix 5**. Note that there were only two shorebased plants that received cod deliveries from this fishery in 2007 and 2008, and only one in the 2009 A season, thus, much of the data by processor type are confidential. Summary data are provided in Table 8 below.

Table 8 Aleutian Islands Pacific cod harvest from State-water fishery by season, 2006 – 2009

| Year | Season | Opening and Closing | Catch (lbs) |
|-------------------|---------------|------------------------------|-------------------|
| 2006 | A | March 15 - March 24 | 8,502,781 |
| | B | June 10 - September 1 | 357,884 |
| | Total | | 8,860,665 |
| 2007 | A | March 16 - March 23 | 8,229,931 |
| | B | June 10 - September 1 | 2,143,310 |
| | B - reopening | October 1 - December 3 | 1,265,760 |
| | Total | | 11,639,000 |
| 2008 | A | March 10 - March 18 | 7,477,487 |
| | B | June 10 - July 9 | 4,235,449 |
| | Total | | 11,712,936 |
| 2009 ¹ | A | March 25 – April 1 | 1,737,434 |
| | A - reopening | April 7 – June 9 | 4,032,415 |
| | B | June 10 – reg closure Sept 1 | conf. |

Source: ADF&G fishticket data, 2006 – 2009.

¹2009 harvest data is only provided through the A season. The B season closed by regulation on Sept 1, but could re-open later in the year. (By regulation, if adequate GHl remains, the B season reopens after the B season federal BSAI Pacific cod over 60' pot CV sector closes.) B season harvest to-date is confidential, due to fewer than 3 participants.

Similar to the 2009 Federal Pacific cod fishery in the AI, the 2009 AI State waters Pacific cod fishery realized reduced participation compared to previous years. Anecdotal information suggests that much of the reduction is due to the declining market for Pacific cod. In previous years, the entire A season GHl was harvested after about a week in March. In 2009, the A season stayed open until the required regulatory closure on June 10, and about 2.6 million pounds remained unharvested and was reallocated to the B season. The B season opened June 10 by regulation, with a relatively high GHl of 6.2 million

pounds.³¹ With smaller vessel size limits in place for the first time in the B season, and the continued declining market price, it is unlikely that the entire B season allocation will be harvested by the end of 2009.³²

The most recent published ex-vessel price information is for the 2007 fishery. The 2007 A season was one week long, and 27 vessels participated, including twenty trawl CVs, and seven pot CVs. The average ex-vessel price for the A season was \$0.45 per pound and the estimated fishery value was approximately \$3.7 million. The B season opened on June 10 with a GHL of 3,410,357, closed by regulation on September 1, and reopened after the closure of the parallel Federal BSAI Pacific cod $\geq 60'$ pot CV fishery, in order to harvest the additional GHL available. During the 2007 B season, ten vessels participated during the first portion of the season and five during the second portion. Vessels fishing with pot gear harvested 70% of the B season GHL. The average ex-vessel price for the B season was \$0.52 per pound, for an approximate ex-vessel fishery value of \$1.7 million.³³

2.6.3 Estimated ex-vessel and total product values in the Federal BSAI Pacific cod fishery

Table 9 and Table 10 below show estimates of ex-vessel prices and value of the Federal BSAI Pacific cod catch (mt) off Alaska by trawl, hook-and-line, and pot gear, during 2003 – 2007, respectively. This information is excerpted from Tables 18 and 19 of the 2008 Economic Stock Assessment Fishery Evaluation (SAFE) report (NMFS 2008), which is the most recent published NMFS data available.

Table 9 Estimates of ex-vessel prices in the BSAI Pacific cod fishery, 2003 - 2007

| Year | Fixed gear (\$/lb, round wt) | Trawl gear (\$/lb, round wt) |
|------|------------------------------|------------------------------|
| 2003 | .292 | .268 |
| 2004 | .254 | .219 |
| 2005 | .294 | .232 |
| 2006 | .444 | .346 |
| 2007 | .463 | .427 |

Source: NMFS catch accounting system, fishtickets, commercial operators annual report, weekly processor reports. 2008 Economic SAFE report, Table 18, p. 49.

Note: Prices do not include the value added by at-sea processing; therefore they reflect prices prior to processing. Prices do reflect the value added by dressing fish at sea, where the fish have not been frozen.

Table 10 Estimates of ex-vessel value of BSAI Pacific cod, 2003 – 2007 (\$ millions)

| Year | Trawl CV | Trawl CP | H&L CV | H&L CP | Pot CV | Pot CP |
|------|----------|----------|--------|--------|--------|--------|
| 2003 | 21.1 | 17.6 | 0.4 | 68.4 | 9.2 | 1.0 |
| 2004 | 11.9 | 18.7 | 0.5 | 61.1 | 7.6 | 1.8 |
| 2005 | 10.9 | 14.6 | 0.5 | 78.0 | 7.5 | 2.2 |
| 2006 | 14.0 | 21.5 | 0.8 | 93.2 | 15.6 | 3.0 |
| 2007 | 19.0 | 35.0 | 1.0 | 86.7 | 14.5 | 3.0 |

Source: NMFS catch accounting system, fishtickets, commercial operators annual report, weekly processor reports. 2008 Economic SAFE report, Table 19, pp. 51-52. Ex-vessel value is calculated using prices from

Table 9 above.

The value added by at-sea processing is not included in these estimates of ex-vessel value.

³¹There is a regulatory closure for the B season of September 1, with a possible re-opening later in the year if the parallel fishery closes.

³²K. Milani, ADF&G, personal communication, 7/15/09.

³³ADF&G Fishery Management Report No. 08-43 (August 2008): Bering Sea-Aleutian Islands Area State-Waters Groundfish Fisheries and Groundfish Harvest from Parallel Seasons in 2007.

Table 11 shows estimates of the total product value per round metric ton of retained Pacific cod off Alaska by processor type, during 2003 – 2007. These estimates include the product value of catch from both Federal and State of Alaska fisheries. This information is excerpted from Table 27 of the 2008 Economic SAFE report.

Table 11 Total product value per round metric ton of retained catch of BSAI Pacific cod by processor type, 2003 – 2007 (dollars)

| Processor type | 2003 | 2004 | 2005 | 2006 | 2007 |
|----------------------|-------|-------|-------|-------|-------|
| Motherships | 828 | 1,046 | 1,142 | 1,758 | 1,947 |
| Catcher processors | 1,159 | 1,172 | 1,388 | 1,753 | 2,053 |
| Shoreside processors | 1,058 | 959 | 1,332 | 1,412 | 1,663 |

Source: Weekly processor reports, commercial operators annual report (COAR), and catch accounting system estimates of retained catch. 2008 Economic SAFE report.

Note: These estimates include the product value of catch from both Federal and State of Alaska fisheries.

The most recent Economic SAFE reports ex-vessel prices through 2007. Note that generally, from 2006 to 2008, the price of cod steadily increased, with average BSAI fixed gear Pacific cod prices peaking at about \$0.62/lb in several months during 2008. After October 2008, average prices started to decrease, and some vessels ceased fishing due to the price reduction. Through April 2009, the lowest average price since 2006 has been in April 2009, as the price fell to less than half of the 2008 peak, averaging about \$0.23/lb. Early 2009 prices thus represent about a 62% decrease from the peak prices paid in 2008, and almost a 50% decrease from the 2007 and 2008 yearly average price paid.³⁴ While this information is specific to fixed gear vessels delivering shoreside, the general trend also applies to BSAI Pacific cod harvested with trawl gear.

The first wholesale market for head-and-gut (H&G) cod product has also substantially declined in 2009. While it is difficult to compare prices due to the large number of variables (e.g., gear and product type, shipping charges, etc) one market report noted that “Recent reports from Alaska have been that prices for H&G cod that at one point this spring were as low as \$0.90, have now rebounded to around \$1.15, and some sellers were refusing offers at \$1.30 in the week before I left for Brussels. Of course, prices for Alaskan cod are highly size dependent, as yield will vary by the size of the fish.”³⁵

2.6.4 State and municipal fishery taxes

In December, the Council requested background information on State and municipal fisheries taxes, and which sectors are assessed those taxes. The State of Alaska levies taxes on fishery resources processed outside of and first landed in Alaska, as well as on fishery resources processed in Alaska. Alaska statutes provide that a percentage of revenue collected from these taxes shall be shared with qualified municipalities in Alaska. The amount of money available to distribute is based upon fisheries business and fishery resource landing taxes collected during the program base year as defined in Alaska statute.³⁶ Essentially, the tax is levied against fishery resources processed or landed the year before. For example, fiscal year 2007 payments were based on taxes collected in fiscal year 2006 for fish that were processed or landed during calendar year 2005.

³⁴NMFS personal communication, 4/22/09. Information based on ADF&G fish tickets, for Pacific cod (bled cod) harvested by fixed gear vessels and delivered to shoreside processors.

³⁵John Sackton, www.seafoodnews.com, May 2009.

³⁶Refer to 3 AAC 134.160(11).

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

State Fisheries Business Tax

The fisheries business tax ('raw fish tax') is levied on businesses that process fisheries resources in Alaska or export fisheries resources from Alaska. The tax is based on the value of the raw fishery resource, and the tax rates vary from 1% to 5%, depending on whether the fishery resource is considered 'established' or 'developing,' and whether it was processed by a shore-based or floating processor. Currently, the tax rates for established fisheries are 3% for fishery resources processed at shorebased plants and 5% for those processed at floating processors (AS 43.75.015). Revenues are deposited into the State of Alaska's General Fund, and 50% of revenues are distributed to qualified municipalities (see Appendix 6). In 2008, the shared amount to municipalities was approximately \$20.2 million.³⁷

State Fishery Resource Landing Tax

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

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

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

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

Municipal Raw Fish Tax

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

³⁷Alaska Dept. of Revenue, Tax Division, Revenue Sources Book, Fall 2008, pp. 66 – 67.

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

2.6.5 Communities of Adak and Atka

Adak and Atka are the two communities located in the eastern AI (Area 541) with shoreside processing plants that the processing sideboards are intended to protect, by limiting the amount of Pacific cod deliveries that each of the rationalized processing sectors (AFA, crab processing vessels, Amendment 80 CPs) can receive from catcher vessels harvesting cod in the Eastern and Central AI. Limited profiles of Atka and Adak are provided here for reference from two sources.³⁸

Atka

Atka is located on Atka Island towards the end of the Aleutian Island archipelago, and it is one of the westernmost fishing communities in the Aleutian chain. The island has been occupied by the Unangas people for at least 2,000 years. Unangas speak the western dialect, known since the Russian era as Aleuts. The first contact with Russians occurred in 1747, and Atka became an important trade site and safe harbor for Russians. During the 1920s, Atka became relatively affluent due to fox farming. After the Japanese attacked Unalaska and seized Attu and Kiska in June 1942, the U.S. Government evacuated Atka residents to the Ketchikan area. Atka was burned to the ground to prevent Japanese forces from using it and advancing. The community was rebuilt by the U.S. Navy after World War II, and residents were allowed to return. Many Attu residents, released from imprisonment in Japan in 1945, relocated to Atka.

Atka was incorporated as a second class city in 1988, and has a 2000 U.S. Census population of 92. Residents of Atka are primarily Alaska Native (Aleut), and a Federally-recognized tribe is located in the community (the Native Village of Atka IRA). Atka has a State-owned runway, and scheduled air services are available twice weekly from Unalaska. Planes can also be chartered from Anchorage, Cold Bay, or Unalaska. Coastal Transportation provides freight service from May to October. A new dock and port facility, operated by the city, were recently completed five miles from town.

The economy is predominantly based on subsistence living as well as commercial halibut and sablefish fishing. According to the CFEC, 4 commercial permits were held by 3 permit holders in Atka in 2006, and 2 permits were held by 2 permit holders in 2007. While 2008 data are considered preliminary and incomplete, CFEC reports indicate that 6 permits were held by 4 permit holders in 2008, and 5 of those permits were fished by 4 fishermen. Four of those 6 permits were halibut permits for longline vessels <60', and the other two were sablefish permits for longline vessels <60'.³⁹

Atka is a CDQ community, represented by APICDA, and has a small onshore processor (Atka Pride Seafoods) which serves the local fleet and employs local residents. The processing plant is a joint venture between APICDA Joint Ventures and the Atka Fisherman's Association. They formed Atka Pride Seafoods in 1994, began processing in 1995, and have processed every year since. The primary species processed are halibut and sablefish, and the commercial fleet delivering to Atka is involved mainly in those fisheries. The APICDA website notes that Atka Pride Seafoods typically operates seasonally, from June through September. It also notes that the decline in Area 4B halibut quota has reduced the amount of

³⁸Community information on Atka is from the "Community Profiles for North Pacific Fisheries – Alaska", U.S. Dept. of Commerce, NOAA Fisheries, NMFS, AFSC. December 2005, pp. 297 – 300. It is also from the State of Alaska's "Alaska Community Database Community Information Summaries". Community information on Adak is from the "Comprehensive Baseline Commercial Fishing Community Profiles: Sand Point, Adak, St. Paul, and St. George, Alaska", prepared for the NPRB and NPFMC by EDAW, June 2008.

³⁹<http://www.cfec.state.ak.us/gpbycen/2008/016018.htm>

halibut quota available to the plant.⁴⁰ A number of offshore fish processors also carry out crew changes through Atka.⁴¹

Note that the Council received a letter from city leaders in Atka at its April 2008 meeting, related to a proposal from Adak Fisheries for NMFS to develop an emergency rule to require that all trawl Pacific cod harvested in the region be delivered onshore in the 2009 A season.⁴² While that proposal is not being developed, Atka noted that such processing restrictions would reduce their revenue opportunities. The letter notes that they currently depend upon a (crab) floating processor (M/V Independence, Trident Seafoods) to purchase and process Pacific cod as well as other species. Trident pays a local sales tax to Atka, as well as raw fish taxes. The letter notes that Atka is planning to transition to processing crab and Pacific cod at its shoreplant in the future.

Both APICDA and Atxam Corporation, the village corporation in Atka, recently purchased processing quota share for Western AI golden king crab, with APICDA purchasing the maximum amount of shares under the cap. APICDA also holds Eastern AI golden king crab PQS, and Atxam holds Western AI red king crab PQS. Atka plans to use a floater to process that crab in the near-term, as the shoreplant is currently closed for reconstruction; a project which includes allocating space to eventually add a crab processing line. However, owners of the plant are not incorporating the utilities and processing equipment into the rebuilding project necessary to process crab at this time. Atka began the plant rebuilding project because the original core structure was deteriorating, necessitating reconstruction. Atka took that opportunity to remodel and upgrade the facility at the same time. The intent is to focus the reconstruction of the plant on processing halibut, sablefish, and Pacific cod, while providing space such that the plant is available to process crab at some point in the future.⁴³

Representatives of Atka have emphasized that the ability to use a stationary floating processor in Atka is necessary in both the short and long-term for the viability of the community. Anecdotal evidence suggests that a high volume of cod is necessary to make cod operations economically viable, whether the operation is a shorebased plant or floating processor. Atka recognizes it would need to substantially increase its shoreplant capacity in order to make cod processing economically feasible. Thus, Atka is rebuilding the plant such that it has the capacity to process cod in volume, when and if they believe it is economically worthwhile to do so. Adding the capacity to process cod was relatively simple and inexpensive to incorporate into the rebuild, but that does not mean that Atka would necessarily start to process cod in volume upon completion of the rebuilding project in 2010.⁴⁴ In addition, a floating processor will continue to be necessary to process crab, and potentially other species, near the community. Note that a representative of APICDA testified at the December 2008 and February 2009 Council meetings that APICDA does not support the proposed action.⁴⁵

Adak

Adak is located on Kuluk Bay on Adak Island in the Aleutian chain. It is the southernmost community in Alaska, with a 2000 U.S. Census population of 316, although estimates of year-round residents vary. The community incorporated as a second class city in 2001. According to City of Adak staff estimates, in 2007, the population was about 120 year-round residents. Unlike Atka, Adak is not a CDQ community.

Like Atka and the rest of the Aleutian Islands, Adak was historically settled by the Unangas peoples. The once heavily-populated island was abandoned in the early 1800s as the Aleutian Island hunters followed

⁴⁰http://www.apicda.com/community%20development/seafood_processing.html

⁴¹http://www.commerce.state.ak.us/dca/commdb/CIS.cfm?comm_boro_name=Atka

⁴²Letter from L. Prokopeuff, M. Snigaroff, and L. Lokanin, to E. Olson, Council Chair, April 2, 2008.

⁴³Larry Cotter, APICDA, pers. comm., August 15, 2008. Joe Kyle, APICDA, pers. comm., May 19, 2009.

⁴⁴Joe Kyle, APICDA, pers. comm., May 19, 2009.

⁴⁵Testimony provided by Everette Anderson, APICDA, December 16, 2008, and February 5, 2009.

the Russian fur trade eastward, and famine set in on the Andreanof Island group. However, they continued to actively hunt and fish around the island over the years, until World War II. Adak Army installations allowed U.S. forces to mount a successful offensive against the Japanese-held islands of Kiska and Attu. After World War II, Adak was developed as a Naval Air Station, playing an important role during the Cold War as a submarine surveillance center. At its peak, the station housed 6,000 naval personnel and their families. The station officially closed on March 31, 1997, and the Aleut Corporation acquired a significant portion of Adak Island, along with the naval facilities, under the BRAC (base realignment and closure) and other Federal land transfer processes. This was a complicated and multi-step process that resulted ultimately in a land exchange between the Aleut Corporation and the USFWS. A significant portion of land on the southeastern edge of the former military-controlled land was retained as Federal land, due to its high wildlife value and location (connected to other USFWS owned land).

Most are aware of Adak's significant role during World War II as a U.S. military operations base, as well as the Aleut Corporation's current efforts to develop Adak as a commercial center and civilian community with a private sector economy focused heavily on commercial fishing. Adak is pursuing a broad range of fisheries for a resident fleet to be able to deliver to Adak Fisheries, the shoreside processor located on Adak. Through Congressional action, Adak currently receives an exclusive allocation of Western AI golden king crab⁴⁶ (allocated to a non-profit entity representing Adak) and an allocation of the AI pollock fishery (allocated to the Aleut Corporation).⁴⁷ Note that the plant to date has processed only a small amount of AI pollock, since the implementation of the 2005 set-aside. Critical habitat issues severely constrain the fishery, and almost all pollock has been harvested under experimental fishery permits thus far.

As a relatively new civilian community, the local fleet in Adak is fairly small, composed primarily of vessels 32' or less in length overall. According to the CFEC, 10 permits were held by 6 permit holders in Adak in 2006, and 6 permits were held by 3 permit holders in 2007. Of the six permit holders in Adak in 2006, five had a permit for groundfish, with one also having a halibut/sablefish permit. One permit holder had a salmon permit, which was combined with a crab/other permit. While 2008 data are considered preliminary and incomplete, CFEC reports also indicate that 7 permits were held by 2 permit holders in 2008, and 4 of those permits were fished by two fishermen. Two of those 7 permits were halibut permits for longline vessels <60', two were sablefish permits for longline vessels <60', and three were for other groundfish (two for longline vessels <60', and one for a jig vessel).⁴⁸

The community profiles document (EDAW, June 2008) reports that at the time of fieldwork in 2007, five small vessels were considered 'local' by residents and actively engaged in, or attempting to be engaged in, local fisheries. Additionally, there are a number of other vessels that spend time in Adak and may have the community name painted on their vessel, but are not considered part of the local fleet by Adak residents, as they have stronger homeporting and fishing effort ties elsewhere.

Normally, the activity in the Adak processing plant is greatest in January through March, relatively quiet from April through June, and then runs about half-speed from July through September, before activity tapers off from October into November. The A season Pacific cod fishery is the main source of income for the plant (and raw fish tax revenue for the City of Adak), accounting for about 75 percent of plant revenue. Beyond the processing crew that comes to the community during peak processing periods, between 7 and 10 plant employees live in the community year-round. A number of other local residents fill in for short periods of time, when additional labor is needed at the plant (EDAW, June 2008).

⁴⁶In addition, fifty percent of the class A IFQ (i.e., IFQ that must be delivered to a processor with matching IPQ) for the Western Aleutian Islands golden king crab fishery must be delivered to a shorebased or stationary floating crab processor west of 174 degrees west. Only two communities, Adak and Atka, are located within this geographic area.

⁴⁷
⁴⁸<http://www.cfec.state.ak.us/gpbycen/2008/016016.htm>

The shoreside processor in Adak has seen a number of ownership changes since its establishment in 1999 as Adak Seafoods. In mid-July 2000, Norquest became a predominant partner. In January 2002, Iceicle Seafoods became a relatively equal partner in the operation, which operated as Adak Fisheries, LLC. Other ownership changes ensued, although until recently, the company still operated as Adak Fisheries, LLC, and one of the two individuals who originally started the plant was still active in its ownership and operation. **However, since the initiation of this regulatory amendment, Adak Fisheries' financial situation has changed and future operation of the plant has become uncertain. Minimal information is reported here, as it will not likely be up-to-date at the time this document is distributed.**

While ADF&G fishtickets indicate that Adak Fisheries provided an ex-vessel price that was higher than the average price reported in Section 2.6.3,⁴⁹ the significant drop in the Pacific cod markets also affected Adak Fisheries operations. It realized a substantial reduction in the price per ton paid for frozen head and gut cod product compared to 2008, a trend which is not limited to Adak Fisheries. As the market dropped, many customers backed out of their pre- and in-season offers. As a result, sales of product from Adak Fisheries have been well below pre-season expectations, and much of the 2009 product is in cold storage. Adak Fisheries is almost paid up for all fish delivered during the Federal Pacific cod A season, but has been unable to pay for all fish delivered in the State water A season and Federal B season. At the same time, Adak Fisheries did not pay its power bill in full, so power was shut off to the plant in the spring of 2009. Power is supplied by TDX, a power production and distribution company owned by an Alaska Native village corporation.⁵⁰ In effect, the plant has essentially been in hibernation mode, using generators to keep limited power to the building. Adak Fisheries essentially stopped processing after the 2009 Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April).

In early August 2009, a different company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy.⁵¹ The company has several unpaid creditors, totaling several million dollars. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and related assets to a new company, Adak Seafood, LLC.⁵² In sum, it is uncertain whether a shorebased plant will be operational in Adak in the near or long-term future.

Fisheries data on Adak and Atka

The following tables show various species or categories of species delivered to the shoreside plant in Adak (Adak Fisheries) during 2002 through 2008. While cod processing occurred at the physical shoreside plant in Adak starting in 1999, the plant was owned by Norquest Seafoods at the time. In August 2001, the plant changed ownership and has since been owned by Adak Fisheries.⁵³ A waiver of confidentiality was offered by and obtained from a representative of Adak Fisheries in order to provide the ADF&G fishticket data for this processor.⁵⁴ The following tables differentiate harvest in the Aleutian

⁴⁹Recall that the average price noted was for hook-and-line Pacific cod delivered shoreside in 2009.

⁵⁰Tanadgusix Corporation (TDX) is an Alaska Native village corporation created under the Alaska Native Claims Settlement Act of 1971, to provide economic well-being for the indigenous peoples that resided in the village of St. Paul, Alaska.

⁵¹Source: Seafoodnews.com.

⁵²The notice for the hearing (Case No. 09-00623 DMD, dated October 9, 2009) states that the motion is to obtain Court authority to sell the plant and related assets to Adak Seafood, LLC, a newly formed Delaware limited liability company affiliated with Drevik International. Kjetil Solberg, former owner of Adak Fisheries, also has a relationship to the buyer. The sales price is \$488,000, plus assumption of the debtor's entire obligation to Independence Bank of approximately \$6.7 million. The sale is to be free and clear of the claims, liens, and interests of all persons receiving notice of the motion, except Independence Bank; and the claims, liens, and interests of all such persons (excluding Independence Bank) shall attach to the sale proceeds to the same extent and in the same order of priority as existed in the underlying property.

⁵³While identified in the fisheries data as having one owner since 2001, other company names during this period have been Adak Seafoods or Adak Fisheries Development Corporation. The company is currently identified as Adak Fisheries LLC.

⁵⁴Received by ADF&G, signed by William Tisher, July 30, 2008. This waiver applies to Adak Seafoods, Adak Fisheries Development Corporation, and Adak Fisheries LLC.

Islands from that in the Bering Sea, and Pacific cod data are provided separately. Harvest amounts from fewer than three vessels cannot be reported due to confidentiality rules. Note that some crab landings that were custom processed at the Adak facility under another processor name are not included, as the confidentiality waiver only applies to Adak Fisheries. Similar information is not provided for the shoreside processor in Atka, due also to confidentiality limitations. However, as stated previously, the two primary species processed in Atka are halibut and sablefish.

Table 12 shows that the majority of the deliveries to Adak Fisheries during this time period have been Pacific cod, ranging from a low in 2008 of 5,597 mt to a high of 12,435 mt in 2007. The average annual amount of cod deliveries during 2002 – 2008 is 8,222 mt. Note that the State water Pacific cod fishery in the AI was established by the Alaska Board of Fisheries in 2006, and this harvest is broken out for 2006 through 2008. The allocation to the State water Pacific cod fishery is 3% of the BSAI Pacific cod ABC. The State water AI Pacific cod fishery, CDQ Pacific cod, and Federal Pacific cod are all included, in order to provide the total amount of cod processed in Adak in recent years.

Typically, as stated previously, the majority of the BSAI trawl CV Pacific cod harvest occurs in the A season, with additional landings in the B and C seasons. As with most sectors, the A season has been shorter in recent years, the shortest of which has been 2008. Adak Fisheries has testified to the Council at numerous meetings that substantial investments in plant capacity have occurred in recent years in response to the shortened cod seasons. The company previously provided the Council with a summary of the 2002 through 2008 A season for trawl CV Pacific cod in Adak, stating that early in 2008, the level of harvest was greater than normal, until mothership vessels arrived near Adak in mid-February. Adak asserts that this resulted in a diversion of landings that would have otherwise been processed at the shoreside plant in Adak, and that this reduction in landings continued for the remainder of the A season (about a month) and into the State water AI season. Table 12 shows that in 2008, Adak Fisheries received about 4,319 mt of Federal Pacific cod from 33 unique catcher vessels, and an additional 1,278 mt from 26 vessels in the AI State waters cod fishery, for a total of 5,597 mt. This represents a 55 percent reduction in 2008 Pacific cod landings in Adak compared to 2007, and a 32 percent reduction compared to the 2002 – 2008 average.

Limited 2009 fishticket data are also available and considered preliminary.⁵⁵ Adak Fisheries received about 6,684 mt from 18 unique catcher vessels in the Federal Pacific cod A season, an additional 359 mt from 13 catcher vessels in the AI State waters cod fishery A season, and an additional 1,120 mt from 9 catcher vessels in the Federal Pacific cod B season. A total of 21 unique catcher vessels participated through April 2009, all but one of which used trawl gear (head and gut cod), for a total of about 8,163 mt of Pacific cod delivered to Adak Fisheries. (This total is reduced to 7,804 mt if the AI State waters fishery is excluded). Almost all of the cod was harvested in Area 541. Thus, Adak Fisheries already received a higher volume of Pacific cod in 2009 than they did in 2008, but less than their highest year of 2007. One vessel also delivered some Pacific ocean perch and another unique vessel delivered other groundfish to Adak Fisheries in early 2009; that data is confidential due to the limited number of vessels.

Note also that the primary mothership vessel that operated near Adak in 2008 did not go out to Adak in the 2009 A season, possibly due to the declining market for cod, and there was not significant participation from any other motherships in Area 541 or 542. Additional preliminary data on the overall 2009 Pacific cod fishery is provided to the extent possible in Section 2.8.

⁵⁵2009 fishtickets were provided by Adak Fisheries, and included under the waiver of confidentiality.

Table 12 Number of vessels delivering and amount (mt) to Adak Fisheries, by species or species group, 2002 – 2008

| Year | FMP Area | Species | Vessels | Metric tons |
|------|----------|---------------------------|---------|-------------|
| 2002 | AI | Pacific cod | 24 | 8,498 |
| | AI | crab, golden (brown) king | 7 | 784 |
| | AI | crab, red king | 12 | 77 |
| | AI | halibut | 30 | 1,004 |
| | AI | other AI groundfish | na | 568 |
| | BS | halibut | 3 | 19 |
| | BS | sablefish (blackcod) | 1 | conf. |
| | WG | halibut, Pacific | 1 | conf. |
| 2003 | AI | Pacific cod | 23 | 8,706 |
| | AI | crab, golden (brown) king | 6 | 861 |
| | AI | crab, red king | 10 | 65 |
| | AI | halibut | 29 | 610 |
| | AI | other AI groundfish | 2 | conf. |
| | BS | Pacific cod | 1 | conf. |
| | BS | other BS groundfish | na | 2 |
| 2004 | AI | Pacific cod | 19 | 9,430 |
| | AI | crab, golden (brown) king | 7 | 679 |
| | AI | halibut, Pacific | 25 | 393 |
| | -- | halibut, Pacific | 1 | conf. |
| | AI | other AI groundfish | na | 163 |
| | BS | halibut | 3 | 21 |
| | BS | BS groundfish | na | 2 |
| 2005 | AI | Pacific cod | 16 | 6,438 |
| | AI | crab, golden (brown) king | 2 | conf. |
| | AI | halibut | 21 | 326 |
| | AI | other AI groundfish | na | 292 |
| | BS | BS groundfish | na | conf. |
| 2006 | AI | State Waters Pacific cod | 12 | 873 |
| | AI | Pacific cod | 17 | 5,576 |
| | AI | halibut | 11 | 117 |
| | AI | other AI groundfish | na | 1,000 |
| | WG | halibut | 1 | conf. |
| 2007 | AI | State Waters Pacific cod | 31 | 2,832 |
| | AI | Pacific cod | 29 | 9,603 |
| | AI | crab, golden (brown) king | 2 | conf. |
| | AI | halibut | 13 | 140 |
| | AI | other AI groundfish | na | 1,516 |
| | BS | halibut | 1 | conf. |
| | WG | halibut | 1 | conf. |
| 2008 | AI | State Waters Pacific cod | 26 | 1,278 |
| | AI | Pacific cod | 33 | 4,319 |
| | AI | crab, golden (brown) king | 1 | conf. |
| | AI | halibut | 13 | 218 |
| | AI | other AI groundfish | na | 804 |
| | BS | Pacific cod | 1 | conf. |

Source: ADF&G Fishtickets, 2002 – 2008. Retained catch only. Harvest (mt) is rounded to the nearest metric ton.

Includes deliveries of any species to Adak Fisheries, including CDQ and AI State water Pacific cod fisheries.

Note: Small amounts of octopus and sculpin are included under 'other AI groundfish' in some years.

Note: Small amounts of custom processed crab species that were physically processed in Adak under another plant name are not included.

It may be beneficial to understand more about the existing fleet that delivers to Adak and Atka. Table 13 shows the number of unique vessels that delivered to Adak and Atka during 2002 – 2008, in order to provide an idea of the size of the recent fleet delivering to these two communities. Metric tons (retained catch) landed are provided for Adak, as Adak Fisheries waived confidentiality of these data. However, landings data for Atka are masked. Note that while Table 13 shows deliveries from all FMP areas delivered to these communities, the vast majority is from Area 541 (Eastern AI).

Table 13 Number of unique vessels delivering any species to Adak and Atka during 2002 – 2008, and metric tons landed

| Year | FMP area | City | Vessels | Metric tons |
|------|----------|------|---------|-------------|
| 2002 | AI | Adak | 69 | 10,931 |
| | BS | Adak | 4 | 19 |
| | WG | Adak | 1 | ** |
| | | Atka | 5 | ** |
| | AI | Atka | 9 | ** |
| 2003 | AI | Adak | 70 | 10,536 |
| | BS | Adak | 3 | 2 |
| | | Atka | 2 | ** |
| | AI | Atka | 7 | ** |
| 2004 | | Adak | 1 | ** |
| | AI | Adak | 48 | 10,665 |
| | | BS | Adak | 5 |
| | | Atka | 3 | ** |
| | AI | Atka | 6 | ** |
| 2005 | AI | Adak | 34 | 7,222 |
| | BS | Adak | 2 | ** |
| | | Atka | 1 | ** |
| | AI | Atka | 5 | ** |
| 2006 | AI | Adak | 27 | 7,567 |
| | WG | Adak | 1 | ** |
| | AI | Atka | 7 | ** |
| 2007 | AI | Adak | 51 | 14,278 |
| | BS | Adak | 1 | 18 |
| | WG | Adak | 1 | 5 |
| | AI | Atka | 6 | ** |
| 2008 | AI | Adak | 45 | 6,994 |
| | BS | Adak | 1 | 144 |
| | AI | Atka | 5 | ** |

Source: ADF&G Fish tickets, 2002 - 2008. Includes retained catch from all stat areas. Note that some catch records are missing stat area information.

**=Confidential data. The 'city' column refers to landings processed under the Adak or Atka plant names. A small amount of crab landings that were custom processed in Adak under another plant name are excluded.

Table 13 shows that 27 to 70 vessels annually delivered species harvested in the Aleutian Islands to Adak during 2003 – 2008, with those annual harvests ranging from about 7,000 mt (2008) to over 14,000 mt (2007). A few vessels also delivered species harvested in the Bering Sea. Table 13 also shows that 5 to 9 vessels annually delivered species harvested in the AI to Atka. There are also a few catch records for each community without statistical area information.

The CFEC data (not provided) also show that there are two Adak vessels delivering to Adak and three Atka vessels delivering to Atka during 2003 – 2008. This means that Adak and Atka are reported as the vessel owner's residence, based on CFEC vessel ownership records. However, neither vessel owner residence information nor 'homeport' information may provide a complete picture of the fleet of vessels delivering to these communities. As mentioned previously, additional vessels can be considered 'local' by residents and actively engaged in local fisheries. Table 14 and Table 15 provide some information on the fleet of vessels that deliver various levels of landings to each of these communities, even though they may not be 'homeported' in these communities, and/or the vessel owner may list a different city as his or her residence on the CFEC records.

Table 14 provides a summary of participation patterns during 2003 – 2008. This table shows that of the 132 unique vessels that have made landings in Adak during 2003 – 2008, 5 of those have delivered all six years; 2 have delivered in five of the six years; 11 have delivered in four of the six years; 21 have delivered in three of the six years; 36 have delivered in two of the six years; and almost half (57) have delivered in only one of the six years. These are unique numbers, thus, there are 39 vessels that have delivered in *at least three* of the six years during 2003 – 2008.

Table 14 Participation pattern of vessels that delivered to Adak and Atka, 2003 – 2007

| Community | Number of vessels that delivered 1, 2, 3, 4, 5, or 6 years during 2003 - 2008 | | | | | | Total number of unique vessels with landings in 2003 - 2008 |
|-----------|---|---------|---------|---------|---------|-------------|---|
| | 1 year | 2 years | 3 years | 4 years | 5 years | All 6 years | |
| Adak | 57 | 36 | 21 | 11 | 2 | 5 | 132 |
| Atka | 3 | 2 | 3 | 2 | 0 | 2 | 12 |

Source: ADF&G Fishtickets & CFEC records (retained catch only), 2003 – 2008. Includes catch from all areas. The 'city' column refers to landings processed under the Adak or Atka plant names.

In Atka, there are significantly fewer vessels delivering shoreside. Table 14 shows that of the 12 unique vessels that have reported deliveries to Atka during 2003 – 2008, 2 of those have made landings in Atka all six years; 2 have delivered in four of the six years; 3 have delivered in three of the six years; 2 have delivered in two of the six years; and 3 have delivered in only one of the six years. Thus, half of the vessels (7) have made landings in Atka in *at least three* of the six years during 2003 – 2008.

Finally, Table 15 shows that of the total number of unique vessels (132) that made landings in Adak during 2003 – 2008, a range of 4 to 13 vessels annually made 10 landings or more; and 9 to 24 vessels annually made 5 or more landings. Vessels with 10 or more annual landings made up 36 percent to 58 percent of the total landings to Adak. Vessels that made at least 5 landings in a given year comprised the majority of the annual catch – from 62 percent in 2007 to a high of 90 percent in 2003. In any one year, a low of 27 vessels and a high of 70 vessels made at least one landing in Adak during 2003 – 2008.

In Atka, there were significantly fewer vessels delivering overall; twelve unique vessels delivered shoreside during 2003 – 2008. Two to 5 vessels made at least 10 annual landings in 2003 – 2005, and 3 to 7 vessels made at least 5 landings annually. Vessels that made at least 5 landings in a given year comprised the vast majority of the annual catch – more than 95 percent in most years. In any one year, a low of 5 vessels and a high of 7 vessels delivered shoreside to Atka during 2003 – 2008.

Table 15 Number of vessels with at least one, five, or ten landings in Adak and Atka annually and percent of harvest, 2003 - 2008

| Adak | Number of vessels with at least one landing per year | % of harvest | Number of vessels with at least 5 landings per year | % of harvest | Number of vessels with at least 10 landings per year | % of harvest |
|------|--|--------------|---|--------------|--|--------------|
| 2003 | 70 | 100% | 22 | 90% | 10 | 58% |
| 2004 | 48 | 100% | 17 | 81% | 4 | 36% |
| 2005 | 35 | 100% | 9 | 74% | 4 | 47% |
| 2006 | 27 | 100% | 12 | 75% | 6 | 54% |
| 2007 | 51 | 100% | 16 | 62% | 9 | 40% |
| 2008 | 45 | 100% | 24 | 71% | 13 | 52% |
| Atka | Number of vessels with at least one landing per year | % of harvest | Number of vessels with at least 5 landings per year | % of harvest | Number of vessels with at least 10 landings per year | % of harvest |
| 2003 | 7 | 100% | 7 | 100% | 5 | 90% |
| 2004 | 6 | 100% | 6 | 100% | 5 | 59% |
| 2005 | 5 | 100% | 4 | 99% | 2 | 39% |
| 2006 | 7 | 100% | 5 | 95% | 0 | 0% |
| 2007 | 6 | 100% | 3 | 67% | 1 | 48% |
| 2008 | 5 | 100% | 5 | 100% | 0 | 0% |

Source: ADF&G Fish tickets, 2003 - 2008 (retained catch only) and CFEC records. Includes catch from all areas.

2.7 Related documents and actions

The documents listed below include detailed information on the BSAI Pacific cod fishery, as well as the overall groundfish fisheries in the North Pacific, and on the natural resources, economic and social activities, and communities affected by those fisheries:

- Groundfish Programmatic Supplemental Environmental Impact Statement (PSEIS) (NMFS 2004)
- Essential Fish Habitat Environmental Impact Statement (EIS) (NMFS 2005b)
- Harvest Specifications Environmental Impact Statement (EIS) (NMFS 2007)
- Secretarial Review Draft EA/RIR/IRFA for Amendment 85 to the Fishery Management Plan for Groundfish of the Bering Sea/Aleutian Islands Management Area (NPFMC 2006)
- Stock Assessment and Fishery Evaluation (SAFE) Report for the Groundfish Resources of the Bering Sea/Aleutian Islands Regions (NMFS, November 2008)

In addition, there are some upcoming actions that may potentially affect the proposed action in this amendment:

- A proposed action to divide the nine BSAI Pacific cod sector allocations into separate BS allocations and AI allocations, should the BSAI TAC be established as separate BS and AI TACs in a future harvest specifications process.

The analysis for this potential action has not been developed, and is scheduled to be discussed at the April 2010 Council meeting, in conjunction with the review of the 'status quo' Steller sea lion Biological Opinion. The analysis to divide the BSAI Pacific cod allocations between the BS and AI areas is necessary should the BSAI TAC be split into separate BS and AI TACs in a future harvest specifications process, in order to avoid the default scenario in which each Pacific cod sector receives the same

percentage of its current BSAI Pacific cod allocation in each area.⁵⁶ The Council has scheduled a discussion of this potential analysis during the same meeting as the review of the biological opinion, as the results of the biological opinion may have significant impacts on the direction of this analysis. (The biological opinion is scheduled to be released by NMFS in March 2010, thus, the first Council meeting to review the document is April 2010.) While signaling an interest in starting the BSAI Pacific cod sector split analysis earlier in the year, the Council recognized that prior to developing the analysis, there is a need to understand the outcome of the ongoing biological opinion, which, among other things, addresses the effects of the status quo BSAI Pacific cod fishery on Steller sea lions. In effect, depending on the outcome of the biological opinion, the status quo for the Pacific cod fishery could be substantially affected.

Also in February 2009, the Council recommended initiating a small committee in preparation for the potential analysis to consider splitting the BSAI Pacific cod sector allocations. Specifically, the Council approved initiation of a committee to start evaluating the suite of alternatives and recommend data requests that may be necessary to make progress on this issue. The committee has not yet been appointed, due to the need to understand the bounds of the proposed analysis and provide the Council the opportunity to discuss the outcome of the biological opinion in April.

- The ‘status quo’ Steller sea lion Biological Opinion, which, among other things, addresses the effects of the status quo BSAI Pacific cod fishery on Steller sea lions.

As stated above, depending on the outcome of the biological opinion, the status quo for the Pacific cod fishery could be substantially affected, which may have implications on this proposed amendment to establish processing sideboards on catcher vessel deliveries of Pacific cod harvested in the Eastern and Central Aleutian Islands to processing vessels. When the biological opinion is released in early 2010, the Council expects to have additional information as to whether the BSAI Pacific cod total allowable catch needs to be allocated separately between the Bering Sea and the Aleutian Islands, as well as any other potential measures that may be established in the BSAI Pacific cod fishery as a result of the biological opinion. Due to reasons similar to the situation described above, the biological opinion could directly affect whether the draft sideboard analysis prepared for October is accurate and relevant, as both the ‘status quo’ and the potential impacts of the proposed sideboard action could change depending on the outcome of the biological opinion.

- Amendment 92 to the Fishery Management Plan for Groundfish of the Bering Sea/Aleutian Island Management Area and Amendment 82 to the Fishery Management Plan for Groundfish of the Gulf of Alaska

Amendment 92/82, approved by the Council in April 2008, modifies the groundfish License Limitation Program (LLP) for BSAI and GOA trawl catcher vessel and catcher processor licenses. Relative to the BSAI, the Council recommended that the area endorsements (BS and/or AI) on trawl LLPs be removed unless the license has two trawl groundfish landings during the period 2000 through 2006. Note that the landings thresholds include trawl landings in the parallel and Federal groundfish fisheries. Catcher processor licenses are credited with their landings whether they were operating as a catcher processor or a catcher vessel at the time of landing.

Also as part of that action, the Council approved a provision which has the potential to create new AI endorsements on non-AFA trawl CV LLPs that meet specific criteria. The preferred alternative would award AI endorsements to non-AFA trawl CV <60’ MLOA LLPs, if they harvested at least 500 mt of Pacific cod in the AI parallel Pacific cod fishery during 2000 through 2006. These endorsements would

⁵⁶For example, if the BSAI TAC is split in a future TAC-setting process, the default scenario (absent analysis and rulemaking of other alternatives) is that a sector that currently receives an allocation of 22% of the BSAI ITAC would then receive an allocation of 22% of the BS ITAC and 22% of the AI ITAC.

be severable from the overall license and could be transferred to another non-AFA trawl CV LLP with a trawl CV designation and an MLOA designation of <60'. It is estimated that 8 LLPs would qualify to receive an AI endorsement under this provision, 4 of which already hold BS endorsements.

The preferred alternative would also award AI endorsements to non-AFA trawl CV $\geq 60'$ MLOA LLPs, if they have at least one landing in the AI parallel groundfish fishery or AI State-water Pacific cod fishery in 2000 through 2006, and harvested at least 1,000 mt of BSAI Pacific cod in 2000 through 2006. These AI endorsements are not severable from the overall license. It is estimated that 4 LLPs would qualify to receive an AI endorsement under this provision, all of which already hold BS endorsements. Estimates from the analysis show that the total number and percent of AI endorsed catcher vessel licenses remaining in the fisheries increases compared to the status quo.

| Area | Current number of CV endorsements | Number of CV licenses removed | Number of exempt CV licenses | Number of qualifying CV licenses | Number of new AI endorsements created on CV LLPs | Total number and percent of endorsed CV licenses remaining under Council PA | |
|------|-----------------------------------|-------------------------------|------------------------------|----------------------------------|--|---|------|
| | | | | | | | |
| AI | 48 | 5 | 42 | 1 | 12 | 55 | 115% |
| BS | 148 | 33 | 101 | 14 | n/a | 115 | 78% |

The intent of adding additional AI endorsements was reflected in a portion of the Council's problem statement for BSAI Amendment 92/GOA Amendment 82:

In the Aleutian Islands, previous Congressional and Council actions reflect a policy encouraging economic development of Adak. The opportunity for non-AFA CVs to build catch history in the AI was limited until markets developed in Adak. The analysis indicates that there are only six non-AFA CV trawl AI endorsed LLPs. The Congressional action to allocate AI pollock to the Aleut Corporation for the purpose of economic development of Adak requires that 50% of the AI pollock eventually be harvested by <60' vessels. The Council action under Am. 80, to allocate a portion of AI Pacific ocean perch and Atka mackerel to the limited access fleet, does not modify AFA CV sideboard restrictions, thus, participation is effectively limited to non-AFA vessels with AI CV trawl LLP endorsements. A mechanism is needed to help facilitate the development of a resident fishing fleet that can fish in both State and Federal waters. The Council will consider different criteria for the CV eligibility in the AI.

The proposed rule for this action was published December 30, 2008, and the public comment period ended February 13, 2009 (73 FR 79773, 12/30/08). The final rule was published August 14, 2009 (74 FR 1080), and September 14, 2009, is the effective date of implementation.

The action under BSAI Amendment 92/GOA Amendment 82 is relevant in that the number of endorsed trawl CV licenses could increase under the proposed action, which provides an opportunity for additional shoreside processing in Adak. It could create up to 12 new AI endorsements on non-AFA trawl CV licenses, which would be eligible to fish in the Federal Pacific cod fishery in the AI. While the newly endorsed AI licenses could be used to fish other fisheries, such as the new trawl limited access fisheries for Atka mackerel and Pacific ocean perch, new effort in those fisheries as a result of these licenses is estimated to be relatively limited, given the size of the vessels, the areas closed to trawling in the AI, and the currently limited shoreside markets for these species in the Aleutians. Of the primary species that may be targeted by non-AFA CVs receiving new AI endorsements, Pacific cod is the species that has received the most participation by trawl catcher vessels. These newly endorsed licenses have been recently active in either the State waters or parallel BSAI Pacific cod fisheries, and thus, while it is not possible to speculate as to the exact level of effort that would be realized in the future by these licenses in the AI,

there is a likelihood these licenses would be used in AI Federal waters to prosecute the BSAI Pacific cod fishery in the future. It is not possible to estimate the share of potential new cod harvests that would be delivered shoreside versus to processing vessels operating as motherships.

The above three actions, both separately and cumulatively, result in various implications for the amount of catcher vessel effort in the AI, and specifically, how much Pacific cod is harvested in the AI versus the BS.

2.8 Expected effects of the alternatives

This section presents a discussion of aspects of the economic or distributional effects that might be expected to occur as a result of establishing Pacific cod processing sideboards on Pacific cod harvested in Area 541 and/or 542. The impetus for the proposed action originated with shoreside processor and community representatives from Adak, and the concern that increased entry by processing vessels (motherships, CPs, floating processors) would erode the historical shoreside processing share of BSAI Pacific cod. The potential for increased entry by processing vessels is due to the implementation of three primary rationalization programs: AFA, BSAI crab rationalization, and BSAI Amendment 80, the cooperative structures of which provide opportunities for consolidation of processing and free up vessels to act as motherships in the BSAI Pacific cod fishery. There are currently no groundfish processing sideboards associated with these rationalization programs, with the exception of the pollock processing limits on the AFA sector.

Under the proposed action, processing vessels eligible in the three rationalization programs mentioned above would be limited to the historical share of Pacific cod harvested in Area 541 and/or 542 that they received from catcher vessels (i.e., ‘sideboarded’ to a percentage based on historical processing activity as motherships). In this case, the action alternative to establish a processing sideboard would limit the share currently delivered to these processing vessels from increasing beyond historical amounts. Therefore, the near-term and long-term economic effects, as a result of the action, would be anticipated to be negligible. However, other factors associated with this potential action may impact the results. Overall, the Council may want to consider whether the proposed action resolves an unintended consequence of any of the three rationalization programs at issue, thus furthering the original goals of those programs.

2.8.1 Assumptions used in the analysis of the proposed action

There are two primary alternatives: Alternative 1 (no action) and Alternative 2 (establish processing sideboards on Pacific cod harvested by catcher vessels in Area 541 and 542, or Area 542 only). There are several overlapping options proposed under Alternative 2, as detailed in Section 2.2.

At the December 2008 and February 2009 Council meetings, staff reviewed several questions surrounding the options under Alternative 2 that needed clarifying, as well as some assumptions that may be well understood but not explicit in the language of the options. In December and February, the Council reviewed and clarified the following assumptions. The first issues pertain to how the sideboards are structured:

- CDQ harvests of Pacific cod would not count toward the Pacific cod processing sideboard.
- All threshold amounts specified in the options under Alternative 2 are the actual amounts delivered. Retained catch (i.e., actual deliveries) is used, instead of total catch, as the basis for estimations, as it seems the appropriate approach to quantifying deliveries.
- Component 1, Option 1, Suboption 1 means the greatest annual amount delivered within 2005 – 2007 (not the total amount aggregated across all three years).

- All sideboard limits to date have been expressed as percentages of an ITAC or allocation. A percentage approach results in a sideboard that fluctuates with the TAC. While the options propose a processing sideboard ‘amount’, this amount would be based on the amount of Area 541 and 542 cod delivered to the rationalized processing sectors during the qualifying years, and then converted to a percentage of the total CV catch of Pacific cod in the BSAI (excluding AI State waters and CDO). This is because the sideboard percentage ultimately would be multiplied by the combined BSAI Pacific cod CV allocations in order to determine the annual processing limit, as there is no AI-specific Pacific cod allocation.
- The sideboard would be applied to the total combined Pacific cod allocations to CVs each year. (As opposed to being applied to each individual gear-specific BSAI Pacific cod CV allocation).⁵⁷
- The Pacific cod processing sideboard is to be established in the aggregate for Areas 541 and 542 if the Council chooses to apply a sideboard to both areas. In effect, there would be one processing sideboard for all Pacific cod harvested in Areas 541 and 542 (combined) that would apply to all three rationalized sectors.⁵⁸

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

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

The central idea of this action is that rationalization programs, including Amendment 80, created surplus processing capacity by allowing for consolidation of a rationalized processing sector. Since Amendment 80 CPs that do not join an Amendment 80 cooperative can participate in the Amendment 80 limited access fishery, those vessels will continue to compete with each other. The final rule notes that participants in the Amendment 80 limited access fishery will not realize the same potential benefits from consolidation and coordination and will not receive an exclusive harvest privilege that accrues to members of an Amendment 80 cooperative.⁵⁹ NMFS manages the Amendment 80 limited access fishery similar to the way the fisheries were managed prior to implementation of the program. Thus, it spurs the question as to whether the Council intends to apply the Pacific cod processing sideboard to all eligible Amendment 80 CPs, or to limit its application to Amendment 80 CPs participating in cooperatives.

Vessels qualified under Amendment 80 can elect to apply for Amendment 80 quota share on an annual basis, and if so, also elect to join an Amendment 80 cooperative on an annual basis, provided they meet specific criteria. In both 2008 and 2009, eight vessels elected not to join a cooperative, and instead fished in the Amendment 80 limited access fishery. These vessels are owned by three companies. (Three other qualified Amendment 80 vessels did not apply for Amendment 80 quota share, but are still subject to other sideboards within the program.) Even if Amendment 80 vessels choose not to participate in a cooperative, there is the potential for such a limited universe of vessels in the Amendment 80 limited access fishery that it is possible to gain some benefits similar to rationalization. The limited number of participants facilitates the ability to create harvest agreements with one another. In addition, one company may own all of the vessels participating in the Amendment 80 limited access fishery, or there may only be one or two vessels that focus on a particular species (e.g., Pacific cod), thus reducing competition that would otherwise be associated with an (unrationalized) limited access fishery.

⁵⁷The CV sector allocations are: hook-and-line CV $\geq 60'$; pot CV $\geq 60'$; hook-and-line or pot CV $< 60'$; trawl CV; and jig vessels. Note that the jig allocation includes both CV and CP vessels using jig gear, but very few jig CPs have operated.

⁵⁸Note that in February 2009, the Council removed an option which would have established a total of three processing sideboards: one processing sideboard for all Pacific cod harvested in Areas 541 and 542 (combined) that would apply to each of the three rationalized sectors.

⁵⁹NMFS assigns the Amendment 80 limited access fishery the amount of the Amendment 80 sector’s allocation of Amendment 80 species ITAC and crab and halibut PSC that remains after allocation to all of the Amendment 80 cooperatives.

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

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

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

Federal regulations currently define a mothership as “a vessel that receives and processes groundfish from other vessels” (50 CFR 679.2).⁶⁰ The same regulations define a stationary floating processor as “a vessel of the United States operating as a processor in Alaska State waters that remains anchored or otherwise remains stationary in a single geographic location while receiving or processing groundfish harvested in the GOA or BSAI.” Thus, one interpretation is that stationary floaters are a subset of motherships that operate in State waters in a single geographic location, and thus are included in the definition of mothership, even if the common understanding of a ‘true’ mothership is that it is a mobile floating processor.

Of the three rationalized processing sectors at issue, only vessels in the crab sector have been identified in the data acting as stationary floating processors at any time during the years under consideration (1994 – 2007).⁶¹ With the exception of 2001, during 2000 through 2007, one to two crab vessels acted as stationary floating processors each year (three unique vessels). In 2008, two crab vessels acted as stationary floaters.

Thus, the current approach is that the proposed cod processing sideboard would apply to all of the affected rationalized vessels (AFA, crab processing vessels that contributed to *C. opilio* PQS, and Amendment 80 CPs) receiving and processing groundfish from other vessels harvesting Pacific cod in Areas 541 and 542, regardless of whether they were acting as a ‘true’ mothership or a stationary floating processor.

The last issue pertains to the scope of the sideboards:

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

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

2.9 Alternative 1: No action

Alternative 1 is the no action alternative. Alternative 1 would not establish a processing sideboard that would limit the amount of deliveries to rationalized processing vessels of Pacific cod harvested by catcher vessels in Areas 541/542, or establish a date by which such deliveries could be received. Alternative 1

⁶⁰A second part of the definition states: “With respect to subpart E of this part, a processor vessel that receives and processes groundfish from other vessels and is not used for, or equipped to be used for, catching groundfish.” Subpart E refers to the regulations implementing the Groundfish Observer Program.

⁶¹NMFS catch accounting system and personal communication, M. Furuness, October 2008.

would be expected to retain the status quo, in which some portion of the CV cod harvested in these areas is delivered to rationalized processing vessels (i.e., processing vessels described in Section 2.4). Thus, this section provides background information intended to characterize the status quo. The data in this section also serve as the basis for calculating the sideboard options under Alternative 2.

The options to establish sideboards under Alternative 2 focus on the amount of Pacific cod harvested in Areas 541 and 542 that have been delivered by catcher vessels to the AFA, crab processing vessels, and Amendment 80 sectors in recent years or the years prior to the implementation of their respective rationalization programs. Note that in December 2008, the Council approved the addition of Component 1, Option 3, which would confine this action only to catcher vessel deliveries (to motherships/CPs) of cod harvested in Area 542. Thus, the initial analysis of Alternative 1 (no action) shows the historical amount of mothership deliveries of cod harvested in: 1) Areas 541 and 542 combined, and 2) Area 542 only.

The options under Alternative 2 also propose to establish a sideboard date; a date before which the rationalized processing sectors could not receive catcher vessel Pacific cod deliveries from cod harvested in Areas 541/542. Thus, the initial analysis of Alternative 1 also provides the historical earliest dates that Area 541 and 542 Pacific cod have been delivered by catcher vessels to motherships in the rationalized sectors, in order to characterize the status quo.

2.9.1 Share of CV Pacific cod deliveries to motherships versus shoreside processors

Table 16 is provided in order to show the amount of catcher vessel cod landings in total for both areas that have been processed offshore versus onshore, broken out by rationalized processing sector when possible. Table 16 shows the unique number of processors receiving deliveries of Pacific cod harvested in Areas 541 and 542 (combined) in 1994 through June 20, 2009. With the exception of 2008 and 2009, these are the qualifying years covered under the options in Alternative 2. The processing sectors shown are: AFA (CPs/motherships), crab (CPs/floaters), Amendment 80 (CPs acting as motherships/floaters), 'other' mothership/floaters, and shoreside plants. If a sector is not shown under a particular year, that means there was no activity for that sector in that year (i.e., no sectors are lumped together except where noted).

Note that the Council modified the motion in December 2008 to exempt one AFA CP with long-term mothership activity in this fishery. The one exempt AFA CP's processing history is provided in the background tables (e.g., Table 16 and Table 17), in order to provide context for the action (i.e., annual percentage of Pacific cod processed offshore versus onshore) and characterize the status quo. (However, this vessel's history is not used in the numerator of any of the calculations for the proposed sideboards under Alternative 2.)

Note that the harvest data in Table 16 are confidential if there are not more than 3 processors or 3 vessels in any one category, thus, in many years the harvest data cannot be shown separately for each sector. CDQ and AI State water Pacific cod harvest are not included, as these fisheries are not affected by the proposed action. Note also that the data represent retained CV catch, and 2009 data are only through June 20, 2009.

While the data in Table 16 and Table 17 are not broken out by catcher vessel gear type, recall that these data are provided in Table 5 and Table 6. Those tables indicate that all of the CV cod deliveries made to the rationalized processing sectors have been by vessels using trawl gear, while the shoreside plants have received cod deliveries from all gear types. In addition, while company information is limited, it is recognized that several processing vessels have company-affiliated catcher vessels that deliver to them. This practice is not uncommon.

Note also that the data in the following tables are not broken out by season, as confidentiality issues make it difficult to refine the data to that degree. However, as stated previously, most gear sectors, including the trawl CV sector, prefer to take the majority of their harvest in the first (A) season, as a result of higher catch per unit effort due to increased aggregation of cod, as well as market and weather conditions. The regulatory trawl A season is January 20 – April 1. The vast majority of the CV Pacific cod harvested in Area 541 and 542 and delivered to the rationalized sectors at issue has been during the A season; typically 80% to 100% of the total amount delivered. Smaller amounts are delivered during the B season (April 1 – June 10) and C season (June 10 – Nov 1).

Table 16 Number of processing vessels or shoreside plants receiving Pacific cod harvested in the Central and Eastern AI combined, 1994 – 2009

| Year | Sector | Tons | % of total | Vessel count | Processor count |
|------|------------------|--------|------------|--------------|-----------------|
| 1994 | Other Mothership | conf. | - | | 1 |
| | Shoreside | conf. | - | 16 | 3 |
| | Total | 78 | 100% | | |
| 1995 | Other Mothership | conf. | - | | 1 |
| | Shoreside | conf. | - | 33 | 7 |
| | Total | 303 | 100% | | |
| 1996 | AFA | 1,440 | 35% | | 3 |
| | Crab | conf. | - | | 2 |
| | Other Mothership | conf. | - | | 2 |
| | Shoreside | 539 | 13% | 22 | 6 |
| | Total | 4,087 | | | |
| 1997 | AFA | 2,492 | 45% | | 3 |
| | Other Mothership | 2,973 | 53% | | 5 |
| | Shoreside | 93 | 2% | 16 | 6 |
| | Total | 5,557 | | | |
| 1998 | AFA | 1,213 | 21% | | 5 |
| | Other Mothership | 4,433 | 78% | | 7 |
| | Shoreside | 2 | <1% | 7 | 3 |
| | Total | 5,647 | | | |
| 1999 | AFA | 5,304 | 57% | | 5 |
| | Am80 | conf. | - | | 2 |
| | Crab | conf. | - | | 1 |
| | Other Mothership | 273 | 3% | | 3 |
| | Shoreside | 3,264 | 35% | 44 | 6 |
| | Total | 9,281 | | | |
| 2000 | AFA | conf. | - | | 1 |
| | Crab | 4,613 | 33% | | 3 |
| | Other Mothership | conf. | - | | 2 |
| | Shoreside | 7,687 | 55% | 76 | 10 |
| | Total | 13,897 | | | |
| 2001 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 9 | 1 |
| | Other Mothership | conf. | - | 2 | 1 |
| | Shoreside | 3,831 | 51% | 46 | 8 |
| | Total | 7,520 | | | |
| 2002 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 7 | 2 |
| | Other Mothership | conf. | - | 1 | 1 |
| | Shoreside | 9,828 | 65% | 32 | 5 |
| | Total | 15,140 | | | |

Table 16 continued.

| Year | Sector | Tons | % of total | Vessel count | Processor count |
|---------------------|------------------|--------|------------|--------------|-----------------|
| 2003 | AFA | conf. | - | 3 | 1 |
| | Crab | conf. | - | 15 | 2 |
| | Shoreside | 9,019 | 53% | 32 | 6 |
| | Total | 17,031 | | | |
| 2004 | AFA | conf. | - | 2 | 1 |
| | Am80 | conf. | - | 1 | 1 |
| | Crab | conf. | - | 9 | 2 |
| | Shoreside | 9,497 | 70% | 22 | 3 |
| | Total | 13,657 | | | |
| 2005 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 7 | 2 |
| | Shoreside | 6,481 | 82% | 19 | 5 |
| | Total | 7,939 | | | |
| 2006 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 4 | 2 |
| | Other Mothership | | | 2 | 1 |
| | Shoreside | 5,783* | 85%* | 27 | 6 |
| | Total | 6,818 | | | |
| 2007 | AFA | conf. | - | 2 | 1 |
| | Am80 | conf. | - | 3 | 1 |
| | Crab | conf. | - | 8 | 2 |
| | Other Mothership | | | 1 | 1 |
| | Shoreside | 9,900* | 87%* | 36 | 6 |
| | Total | 11,429 | | | |
| 2008 | AFA | conf. | - | 2 | 1 |
| | Am80 | conf. | - | 4 | 2 |
| | Crab | 5,468 | 49% | 15 | 3 |
| | Shoreside | 4,801 | 43% | 50 | 7 |
| | Total | 11,224 | | | |
| 2009 (thru 6/20) | AFA | conf. | - | 4 | 1 |
| | Am80 | conf. | - | 1 | 1 |
| | Crab | conf. | - | 7 | 2 |
| | Shoreside | 8,617 | 71% | 26 | 3 |
| | Total | 12,078 | | | |

Source: ADF&G Fish Tickets for shoreside deliveries 1994-2008 and mothership deliveries 2001-2008, & NMFS Blend data for mothership deliveries 1994-2000, and 2009 data. Retained CV catch only. 2009 data are preliminary and through week-ending date June 20, 2009. All data exclude CDQ harvest and State AI cod fishery harvest.

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

Note: Vessel counts are not available for mothership deliveries in the Blend data (1994 – 2000).

Conf. = confidential data.

*2006 and 2007 data are combined for the 'other mothership' and shoreside sectors due to confidentiality issues when combined with Table 17 or discussed in the text.

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

Overall, Table 16 indicates that the shoreside sector received a relatively small share of catcher vessel cod landings from Areas 541/542 during 1994 to 1998, ranging from <1% to 13% for the years in which the data are not confidential. The remaining harvest was processed offshore. In 1999, when the processing plant opened in Adak, there was a marked increase in the shoreside processing share (35%). Since 2000, the shoreside processing share has continued to increase, to about 87% in 2007. In 2008, that share

declined to an estimated 43%.⁶² As of mid-June 2009, the shoreside sector received about 71% of the catcher vessel cod landings from Areas 541/542.

During 1996 – 1999, the AFA sector had 3 to 5 processing vessels receiving cod deliveries each year. These deliveries were made to 6 unique vessels (5 AFA CPs and 1 AFA mothership). Since 2000, only one AFA CP has been taking cod deliveries every year from Areas 541 and 542. This vessel is exempt from the proposed processing sideboards, due to its continuous participation in these fisheries. Thus, while this vessel's processing history is included in Table 16 for background information, it is not included in calculating the proposed processing sideboards.

The crab sector had 1 to 3 processing vessels receiving cod deliveries during 1996 – 2001 (six unique vessels), and then two vessels each year starting in 2002 (three unique vessels total, and all are floaters), with the exception of 2008. In 2008, three crab processors received cod deliveries from Areas 541 and 542. Note that some of the crab processing vessels aggregated in Table 16 have acted as stationary floating processors. With the exception of 2001, during 2000 through 2008, one to two crab floaters have acted as stationary floating processors each year (four unique vessels). No other stationary floating processors were identified in the data for the other two rationalized sectors (AFA and Amendment 80) at issue.

The Amendment 80 sector had two CPs receive some cod in 1999, one CP received a negligible amount of cod in 2004, and that same vessel received cod deliveries in 2007, 2008, and 2009. One other Amendment 80 CP received deliveries in 2008, for a total of 2. Harvest data for this sector cannot be shown in any year, due to the small number of participants.

There were several (a maximum of 7 in one year) 'other' motherships that received cod deliveries in the earlier years (1994 – 2002) that were not part of any of the rationalized sectors at issue, but note that the majority of these were 'AFA 9' vessels. The 'AFA 9' sector refers to the nine vessels whose claims to catch history and any endorsements or permits for eligibility in any U.S. fisheries in the EEZ were extinguished under Section 209 of the AFA. Thus, the last year these vessels participated in this activity is 1998, and they cannot participate in the future. During 1995 to 1998, all but two of the vessels in the 'other mothership' category were AFA 9 vessels, as they represented the primary cod vessels for this sector at the time. Note also that there were no deliveries to 'other' motherships' in 2003 through 2005, in 2008, or thus far in 2009. In 2006 and 2007, one 'other' mothership received cod harvested each year from Areas 541/542 (one unique vessel).

Several shoreside processor companies received deliveries of Pacific cod harvested in Areas 541 or 542 during 1994 – 2008, but most frequently deliveries were made to nine processors located in Dutch Harbor, Akutan, Adak, King Cove, Chignik and Sand Point.⁶³ The data show that some of these processors received relatively low amounts (<1 mt), which may represent incidental catch when delivering another target species in some cases. In any one year, the minimum number of shoreside processors was 3, and the maximum was 10. The percentage of Pacific cod harvested in Areas 541 and 542 delivered shoreside increased dramatically starting in 1999, when the processing plant opened in Adak. In 2008, seven shoreside processors received cod deliveries harvested from the Central and/or Eastern AI. However, the majority of cod harvested from these areas in 2008 was delivered to motherships or floaters (57%). Through June 20, 2009, three shoreside processors have received cod deliveries, comprising about 71% of the total CV cod harvested in Areas 541/542. The remaining 29% was delivered offshore.

⁶²Note that the 2006 and 2007 data combine the 'other mothership' and shoreside sectors due to confidentiality issues when combined with other tables. However, the majority is attributed to the shoreside sector.

⁶³Note also that within the 'shoreside' sector category, there is one stationary floating processor in 1999 and 2000.

Table 17 is similar to Table 16, but it breaks out the data by Area 541 and 542. Table 17 shows the unique number of processors receiving deliveries of Pacific cod and the number of vessels delivering, by Area 541 and 542, in 1994 through June 20, 2009. This table is provided at the request of the Council, because in December 2008, the Council added an option that would apply this action only to cod harvested in Area 542. Unfortunately, after the table was completed, it was evident that very little harvest data could be provided by sector, year, and area, due to confidentiality. In addition, the vast majority of the data could not be provided, specifically for the rationalized processing sectors, due to the potential for: 1) calculating confidential data when using Table 17 in combination with Table 16, and 2) providing misleading data due to a great deal of aggregation. Thus, the decision was made to provide only the number of processors participating in the fishery, by processing sector and unique number of catcher vessels delivering to those sectors. The Council must rely on the fact that the options it developed are based on actual mothership/CP processing history over a series of years, without having the data provided at this level of detail for each area.

The processing sectors shown are: AFA (CPs and motherships), crab (CPs and floaters), Amendment 80 (CPs acting as motherships/floaters), ‘other’ mothership/floaters, and shoreside plants. If a sector is not shown under a particular year, that means there was no activity for that sector in that year (i.e., no sectors are lumped together except where noted). Similar to Table 16, Table 17 includes the one exempted AFA CP for background information and context. However, the history of this CP is not used to calculate the proposed options for the cod processing sideboard.

Table 17 Number of processing vessels or shoreside plants receiving catcher vessel landings of Pacific cod harvested in the AI, by area, 1994 – 2009

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

Table 17 continued.

| Year | Area | Processing sector | # vessels | # processors |
|------|------|-------------------|-----------|--------------|
| 1999 | 541 | AFA | | 5 |
| | 541 | Am80 | | 2 |
| | 541 | Other Mothership | | 1 |
| | 541 | Shoreside | 38 | 6 |
| | 542 | AFA | | 1 |
| | 542 | Crab | | 1 |
| | 542 | Other Mothership | | 2 |
| | 542 | Shoreside | 10 | 1 |
| 2000 | 541 | AFA | | 1 |
| | 541 | Crab | | 3 |
| | 541 | Shoreside | 69 | 10 |
| | 542 | AFA | | 1 |
| | 542 | Crab | | 1 |
| | 542 | Other Mothership | | 2 |
| | 542 | Shoreside | 24 | 6 |
| | 2001 | 541 | AFA | 2 |
| 541 | | Crab | 8 | 1 |
| 541 | | Other Mothership | 2 | 1 |
| 541 | | Shoreside | 41 | 8 |
| 542 | | AFA | 1 | 1 |
| 542 | | Crab | 5 | 1 |
| 542 | | Other Mothership | 1 | 1 |
| 542 | | Shoreside | 23 | 7 |
| 2002 | 541 | AFA | 2 | 1 |
| | 541 | Crab | 7 | 2 |
| | 541 | Shoreside | 30 | 6 |
| | 542 | AFA | 2 | 1 |
| | 542 | Crab | 2 | 1 |
| | 542 | Shoreside | 15 | 2 |
| 2003 | 541 | AFA | 3 | 1 |
| | 541 | Crab | 15 | 2 |
| | 541 | Shoreside | 30 | 6 |
| | 542 | AFA | 2 | 1 |
| | 542 | Crab | 5 | 2 |
| | 542 | Shoreside | 17 | 3 |
| 2004 | 541 | AFA | 2 | 1 |
| | 541 | Crab | 9 | 2 |
| | 541 | Shoreside | 21 | 3 |
| | 542 | AFA | 2 | 1 |
| | 542 | Am80 | 1 | 1 |
| | 542 | Crab | 3 | 1 |
| | 542 | Shoreside | 15 | 2 |

Table 17 continued.

| Year | Area | Processing sector | # vessels | # processors |
|---------------------|------|-------------------|-----------|--------------|
| 2005 | 541 | AFA | 2 | 1 |
| | 541 | Crab | 7 | 2 |
| | 541 | Shoreside | 19 | 5 |
| | 542 | AFA | 2 | 1 |
| | 542 | Crab | 1 | 1 |
| | 542 | Shoreside | 8 | 1 |
| 2006 | 541 | AFA | 2 | 1 |
| | 541 | Crab | 4 | 2 |
| | 541 | Shoreside | 25 | 6 |
| | 542 | AFA | 2 | 1 |
| | 542 | Other Mothership | 2 | 1 |
| | 542 | Shoreside | 14 | 2 |
| 2007 | 541 | AFA | 2 | 1 |
| | 541 | Am80 | 3 | 1 |
| | 541 | Crab | 8 | 2 |
| | 541 | Other Mothership | 1 | 1 |
| | 541 | Shoreside | 27 | 5 |
| | 542 | AFA | 1 | 1 |
| | 542 | Am80 | 1 | 1 |
| | 542 | Crab | 4 | 2 |
| | 542 | Shoreside | 18 | 1 |
| 2008 | 541 | AFA | 2 | 1 |
| | 541 | Am80 | 4 | 2 |
| | 541 | Crab | 15 | 3 |
| | 541 | Shoreside | 46 | 6 |
| | 542 | Am80 | 2 | 1 |
| | 542 | Crab | 1 | 1 |
| | 542 | Shoreside | 19 | 3 |
| 2009 (thru 6/20) | 541 | AFA | 4 | 1 |
| | 541 | Am80 | 1 | 1 |
| | 541 | Crab | 7 | 2 |
| | 541 | Shoreside | 24 | 3 |
| | 542 | AFA | 3 | 1 |
| | 542 | Am80 | 1 | 1 |
| | 542 | Shoreside | 15 | 3 |

Source: ADF&G Fish Tickets for shoreside deliveries 1994-2008 and mothership deliveries 2001-2008, & NMFS Blend data for mothership deliveries 1994-2000, and 2009 data. Retained CV catch only. 2009 data are preliminary and through week-ending date June 20, 2009. All data exclude CDQ harvest and State AI cod fishery harvest.

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

Note: Vessel counts are not available for mothership deliveries in the Blend data (1994 – 2000).

While there is a limited amount of information provided on an individual processing sector basis, the table indicates that each rationalized mothership/CP sector has received catcher vessel deliveries from cod harvested in both Areas 541 and 542. However, fewer vessels harvested cod and fewer processors

received cod deliveries in Area 542 than Area 541. In addition, while the harvest data cannot be provided in Table 17, the percentage of CV cod harvest from Area 542 that was delivered onshore versus to motherships/CPs varies significantly on an annual basis. Because the total annual harvest in Area 542 is relatively small, even a few deliveries greatly influence the results and provide substantial annual variability.

Table 18 condenses the data from Table 17, in order to show how much of the Pacific cod catcher vessel landings are harvested in each area without violating confidentiality. One can discern a few general points from the provided data. Overall, the great majority of the CV harvest of Pacific cod from these areas comes from Area 541. On average from 1994 through June 20, 2009, 85% of the CV Pacific cod landings from these two areas were harvested in Area 541 (Eastern AI), as opposed to Area 542 (Central AI). The most recent nine years of complete data (2000 – 2008) result in the same average distribution between areas.

Note also that while data are not provided for Area 543, as it is not subject to the proposed action, the majority of Pacific cod harvested during this time period in the entire Aleutian Islands (Areas 541, 542, and 543) comes from Area 541. Overall, about 80% of all AI catcher vessel Pacific cod harvest is taken in Area 541, with 15% harvested in Area 542, and 5% harvested in Area 543.

Table 18 Catcher vessel Pacific cod landings (mt) in Area 541 and 542, 1994 – 2009

| Year | Area 541 | % Area 541 (of total 541/542) | Area 542 | % Area 542 (of total 541/542) | Total Area 541 & 542 |
|--------------|----------------|-------------------------------|---------------|-------------------------------|----------------------|
| 1994 | 78 | 100% | 0 | 0% | 78 |
| 1995 | 288 | 95% | 15 | 5% | 303 |
| 1996 | 3,625 | 89% | 462 | 11% | 4,087 |
| 1997 | 4,901 | 88% | 656 | 12% | 5,557 |
| 1998 | 4,231 | 75% | 1,417 | 25% | 5,647 |
| 1999 | 8,643 | 93% | 638 | 7% | 9,281 |
| 2000 | 11,845 | 85% | 2,052 | 15% | 13,897 |
| 2001 | 5,849 | 78% | 1,671 | 22% | 7,520 |
| 2002 | 12,367 | 82% | 2,773 | 18% | 15,140 |
| 2003 | 13,810 | 81% | 3,221 | 19% | 17,031 |
| 2004 | 11,191 | 82% | 2,466 | 18% | 13,657 |
| 2005 | 6,649 | 84% | 1,290 | 16% | 7,939 |
| 2006 | 5,918 | 87% | 900 | 13% | 6,818 |
| 2007 | 9,982 | 91% | 996 | 9% | 10,977 |
| 2008 | 10,576 | 95% | 569 | 5% | 11,145 |
| 2009 | 9,445 | 82% | 2,042 | 18% | 11,487 |
| TOTAL | 119,398 | 85% | 21,168 | 15% | 140,566 |

Source: ADF&G Fish Tickets for shoreside deliveries 1994-2008 and mothership deliveries 2001-2008, & NMFS Blend data for mothership deliveries 1994-2000, and 2009. Retained CV catch only. 2009 data are preliminary and through week-ending date June 20, 2009. All data exclude CDQ harvest and State AI cod fishery harvest.

Table 19 Amount of CV Pacific cod harvested in Area 541 and 542, by processing sector, 2003 - 2009

| YEAR | AFA/Crab/Am. 80 mothership/floater landings in Areas 541 and 542 | | | Shoreside landings in Area 541 and 542 ¹ | | | CV cod landings in Areas 541 and 542 | Total CV cod catch in BSAI |
|------------------|--|--------------|-----------|---|--------------|-----------|--------------------------------------|----------------------------|
| | mt | % of AI | % of BSAI | mt | % of AI | % of BSAI | | |
| 2003 | 8,013 | 47.0% | 12.2% | 9,019 | 53.0% | 13.7% | 17,031 | 65,936 |
| 2004 | 4,160 | 30.5% | 7.4% | 9,497 | 69.5% | 16.9% | 13,657 | 56,059 |
| 2005 | 1,458 | 18.4% | 2.9% | 6,481 | 81.6% | 12.7% | 7,939 | 51,020 |
| 2006 | 1,035 | 15.2% | 2.0% | 5,783 | 84.8% | 11.4% | 6,818 | 50,632 |
| 2007 | 1,529 | 13.4% | 3.2% | 9,900 | 86.6% | 21.0% | 11,429 | 47,235 |
| 2008 | 6,423 | 57.2% | 13.5% | 4,801 | 42.8% | 10.1% | 11,224 | 47,675 |
| 2009* | 3,461 | 28.7% | 8.8% | 8,617 | 71.3% | 21.8% | 12,078 | 39,471 |
| Average | | | | | | | | |
| 2003 - 07 | 3,239 | 28.5% | 6.0% | 8,136 | 71.5% | 15.0% | 11,375 | 54,176 |
| Average | | | | | | | | |
| 2003 - 08 | 3,770 | 33.2% | 7.1% | 7,580 | 66.8% | 14.3% | 11,350 | 53,093 |

Source: ADF&G fishtickets, 2003 – 2008, retained catch only, except for the last column. Data for total CV cod catch in BSAI is total catch (retained & discarded) from the NMFS catch accounting database. Excludes CDQ harvest and State AI cod fishery harvest.

*2009 data are preliminary through 6/20/09, from NMFS catch accounting database.

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

Finally, Table 19 shows the total retained catcher vessel harvest of Pacific cod harvested in Areas 541 and 542, by the processing sector to which the fish were delivered, during the most recent years (2003 through June 20, 2009). Note that 2009 data are preliminary and from the NMFS catch accounting database, thus, they are not provided in the averages provided, the data for which are based on ADF&G fishtickets. All data are based on Table 16, and the mothership/floater processing category combines all motherships, CPs, and floating processors in the three rationalization programs, due to confidentiality limitations. Harvest attributed to ‘shoreside landings’ includes cod delivered shoreside as well as cod delivered to the one ‘other mothership’ that participated in 2006 and 2007 that is not part of a rationalization program. This grouping was necessary in order to preserve confidentiality and separate deliveries to the AFA/crab processors/Am. 80 sectors. Note that deliveries to this mothership made up a small percentage of the total.

While Table 19 cannot provide data on an individual sector level, it provides a summary of how much of the Pacific cod harvest from Areas 541 and 542 is being delivered shoreside versus to rationalized CPs/motherships/floaters. It was difficult to show data prior to 2003 in Table 19, due to confidentiality issues when combined with other tables, and the potential for providing misleading data due to aggregation. However, percent harvest by processing sector is provided in Table 16 where possible, so that the Council and the public can understand the distribution of Pacific cod processing onshore versus offshore since 1994.

The “percent of BSAI” column shows the retained harvest by each sector in Areas 541 and 542 as a percentage of the total CV Pacific cod catch in the BSAI. The processing sideboards are calculated as a percentage of the total CV Pacific cod catch in the BSAI, since it is assumed they would be applied annually to the combined BSAI CV Pacific cod allocations (which account for all catch).⁶⁴ Thus, retained Area 541/542 catch divided by total BSAI catch appears to be the most appropriate approach. The Council should clarify if a different method is desired.

⁶⁴Note that some, but not all, of the Pacific cod CV sectors have a separate incidental catch allowance. Hook-and-line and pot gear (CP and CV sectors combined) have a 500 mt annual ICA. The Council would need to clarify whether the sideboard should be applied to the combined BSAI CV Pacific cod allocation plus the ICA or without the ICA. The retained catch data used in the tables includes all targets, so it includes incidental catch.

Table 19 shows that the shoreside sector received an increasing share of the Eastern and Central AI Pacific cod deliveries during 2003 - 2007, from 53% in 2003 to almost 87% in 2007, with an average share of about 72%. The rationalized mothership/floater sector received a high of 47% in 2003 and a low of 13% in 2007, with an average share of about 29%.

Recall that the 2008 fishery was one of the primary impetuses for the proposed action.⁶⁵ In 2008, the shoreside share was reduced to about 43%, with the remaining 57% delivered to the rationalized processing sectors. The amount of harvest delivered to each individual rationalized sector cannot be provided due to confidentiality issues, but Table 16 shows that one AFA CP, two Am. 80 CPs, and three crab processing vessels received cod deliveries totaling about 6,423 mt in 2008. The shoreside sector received about 4,801 mt, with the great majority of that harvest delivered to Adak. If 2008 is included in the average (2003 – 2008), the average shoreside share declines to about 67%, with the remaining 33% delivered to the rationalized processing sectors.

Note that including Pacific cod harvest in Areas 541 and 542 from the State managed AI fishery changes those overall percentages by less than one percentage point. About 3,200 mt of Pacific cod harvested by catcher vessels in Areas 541 and 542 from the State AI fishery were reported through 2008; motherships/floaters/CPs from each rationalized sector and the ‘other mothership’ sector received deliveries from this fishery. The majority of the shoreside deliveries from the State fishery were to Adak Fisheries.⁶⁶

As stated previously, the preliminary data for 2009 indicate a different distribution compared to 2008. In 2009, the shoreside share was about 71%, with the remaining 29% delivered to the rationalized processing sectors. Thus, the 2009 distribution (through June 20, 2009) almost exactly mirrors the average 2003 – 2007 distribution between the offshore and onshore processing sectors.

A similar table specific to Area 542 cannot be provided due to confidentiality in many individual years. However, Table 20 shows the average mothership deliveries versus onshore deliveries from cod harvested in Area 542 is about evenly distributed during the same time period. On average during 2003 – 2008, the mothership/CP sector received about 48% of the CV cod harvested in Area 542, and the shoreside sector received about 52%. (Note that the average during 2003 – 2007 results in the same distribution, and excluding the one AFA CP that is exempt from the proposed action does not change these percentages substantially.) Thus, the distribution between processing sectors of cod harvested in Area 542 during 2003 – 2008 is much different from that of Areas 541 and 542 combined.

Table 20 Amount of CV Pacific cod harvested in Area 542 (Central AI), by processing sector, average 2003 – 2008

| AFA/Crab/Am. 80 mothership & floater CV landings in Area 542 | | | | Shoreside landings in Area 542 | | | CV cod landings in Area 542 | Total CV cod catch in BSAI |
|--|-----|---------------|-----------|--------------------------------|---------------|-----------|-----------------------------|----------------------------|
| YEAR | Mt | % of Area 542 | % of BSAI | Mt | % of Area 542 | % of BSAI | | |
| Average 2003 - 08 | 758 | 48% | 1.4% | 816 | 52% | 1.5% | 1,574 | 53,093 |

Source: ADF&G fishtickets, 2003 – 2008, retained catch only, except for the last column. Data for total CV cod catch in BSAI is total catch (retained & discarded) from the NMFS catch accounting database. Excludes CDQ harvest and State AI cod fishery harvest. ¹Harvest attributed to ‘shoreside landings’ includes deliveries to one ‘other’ mothership in 2006 that is not part of a rationalization program, in order to preserve confidentiality and separate deliveries to the AFA/Crab rationalization/Am. 80 sectors.

⁶⁵In 2008, the BSAI Pacific cod trawl CV fishery opened on January 20. The directed fishery was closed on March 6 and the fishery was put on bycatch status. The B season opened on April 1 and was placed on bycatch status on April 4. The C season opened on June 10 and closed on November 1 by regulation.

⁶⁶The dates for the 2008 Pacific cod AI State water A season were March 10 – 18; the B season was June 10 – July 9.

The 2008 harvest data are not provided separately for Area 542, due to confidentiality reasons, as only 2 rationalized processing vessels received cod harvested by catcher vessels in Area 542. The same holds for 2009 – while the harvest data for Area 542 catcher vessel cod processed by the offshore and onshore sectors are confidential, the processing distribution between these two sectors does not differ substantially from the six-year average. Recall that the total amount of cod harvested by catcher vessels in Area 542 is typically only several hundred metric tons, far less than that harvested in Area 541.

In sum, there appears to be some consistency in the offshore versus onshore processing distribution in Area 542 from 2003 to 2009. This is unlike the scenario for Areas 541 and 542 combined, in which the processing distribution in 2008 differed substantially from the previous years’ average, with a shift toward processing by the offshore rationalized processing vessels.

The vast majority of the Pacific cod shoreside deliveries shown in Table 19 and Table 20 have been to Adak Fisheries, and the majority of the Adak deliveries have been from cod harvested in Area 541. Table 21 shows that on average during 2002 – 2008, 88% of the catcher vessel deliveries of Pacific cod to Adak have been harvested from Area 541 and 12% from Area 542. In 2008, the share attributed to Area 541 was about 94%. In addition, Table 21 shows that the total percentage of CV cod harvested in Areas 541 and 542 (combined) and delivered to Adak has increased each year from 2003 to 2007. In 2008, the share was reduced to an estimated 38%. This table only includes 2002 – 2008 data, as these data are provided from the same source, comprise complete years, and 2002 was the first full calendar year in which the shoreside plant in Adak was owned by Adak Fisheries.⁶⁷

Table 21 Amount of CV Pacific cod harvested in the Central and Eastern AI and delivered to Adak Fisheries, 2002 – 2008

| Year | Area 541 | | Area 542 | | AI total Adak landings | % of total AI CV cod landings to Adak | Total CV cod landings in AI |
|-------------------|----------|-----|----------|-----|------------------------|---------------------------------------|-----------------------------|
| | mt | % | mt | % | | | |
| 2002 | 7,091 | 83% | 1,407 | 17% | 8,498 | 56% | 15,140 |
| 2003 | 7,776 | 89% | 930 | 11% | 8,706 | 51% | 17,031 |
| 2004 | 8,453 | 90% | 975 | 10% | 9,428 | 69% | 13,657 |
| 2005 | 5,280 | 82% | 1,156 | 18% | 6,435 | 81% | 7,939 |
| 2006 | 4,986 | 89% | 591 | 11% | 5,576 | 82% | 6,818 |
| 2007 | 8,733 | 91% | 870 | 9% | 9,603 | 84% | 11,429 |
| 2008 | 4,043 | 94% | 277 | 6% | 4,319 | 38% | 11,224 |
| 2002 - 08 average | 6,623 | 88% | 886 | 12% | 7,509 | 63% | 11,891 |

Source: ADF&G fishtickets, 2003 – 2008. Retained catch only.

Excludes CDQ harvest and State AI cod fishery harvest.

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

Adak Fisheries voluntarily provided 2009 fishtickets to staff, in order to provide information on the amount of Pacific cod landings delivered to Adak Fisheries in the 2009 A season, a portion of the B season, and the State waters A season. These fishticket data (through April 5, 2009) cannot be reported here, due to the fact that there are only three shoreside processors processing Pacific cod harvested from Areas 541 and 542 thus far in the data available. Reporting 2009 cod deliveries for Adak Fisheries would thus breach confidentiality rules for the remaining two shoreside processors, when combined with the data in Table 16. However, 2009 does not deviate from the general trend shown in Table 21, notwithstanding 2008. Similar to previous years, the majority of Pacific cod harvested by catcher vessels

⁶⁷A waiver of confidentiality was obtained from a representative of Adak Fisheries in order to provide the ADF&G fishticket data for this processor. This waiver applies to the plant through various company names, including Adak Seafoods, Adak Fisheries Development Corporation, and Adak Fisheries, LLC.

in Areas 541 and 542 was delivered to Adak Fisheries. According to Adak Fisheries, about 95% of the 2009 catcher vessel Pacific cod harvest delivered to Adak (through April 5) was harvested in Area 541, with the remaining 5% harvested in Area 542.

Also note that State AI cod landings are excluded from Table 21. Pacific cod harvested in the Central and Eastern AI from the AI State managed Pacific cod fishery represents additional Pacific cod delivered to Adak Fisheries. State water cod landings to Adak Fisheries from these combined areas are reported as: 2006 – 873 mt; 2007 – 2,832 mt; 2008 – 1,278 mt; and 2009 – 359 mt (2009 includes A season only).

Thus, as previously stated, Adak Fisheries already received a higher volume of Pacific cod in 2009 than it did in 2008, but less than their highest year of 2007. Recall also that the primary mothership vessel that operated near Adak in 2008 did not go out to Adak in the 2009 A season, possibly due to the declining market for cod, and there was not significant participation from any other motherships in Area 541 or 542.

However, since the initiation of this regulatory amendment, Adak Fisheries' financial situation has changed and future operation of the plant has become uncertain. Note that the situation is very fluid, and information reported here may not be up to date by the time the Council reviews this document. As discussed in Section 2.6.5, the significant drop in the Pacific cod markets also affected Adak Fisheries operations. It realized a substantial reduction in the price per ton paid for frozen head and gut cod product compared to 2008, and product sales have been well below pre-season expectations. Adak Fisheries has not been able to pay for all fish delivered in the State water A season and Federal B season, and has not fully paid its power bill. Essentially, Adak Fisheries stopped processing after the 2009 Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April). The plant is currently in 'hibernation mode,' running off of limited power. In early September, Adak Fisheries officially filed for Chapter 11 bankruptcy, and the company has several unpaid creditors, totaling several million dollars. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and related assets to a new company, Adak Seafood, LLC. In sum, it is uncertain whether a shorebased plant will be operational in Adak in the near or long-term future.

2.9.2 Earliest delivery dates to motherships versus shoreside processors

The earliest landing dates of catcher vessel Pacific cod harvested in Area 541 or 542, by processing sector, from 1994 to 2009 are provided in Table 22 below. The categories of processing sectors shown are processing vessels in the AFA, Amendment 80, and crab rationalization programs, as well as other motherships and shoreside processors. Generally, over this time period, the landing dates for the shoreside sector have moved from early March to early February, with a few exceptions. The most recent three years provided show that the earliest shoreside deliveries have been in mid to late January.

Note from previous discussions that only one AFA CP has been operating in this capacity in the Aleutians since 2000, thus only one vessel represents the participation for the most recent ten years of AFA activity. This vessel has received deliveries from CV cod harvests in Area 541 or 542 generally ranging from early to mid-February. This AFA CP is exempt from the proposed action, and is not included in Table 22. The first Amendment 80 deliveries were made in March in each of the years this sector participated, with the exception of 2009, in which the first delivery was early February. Deliveries to crab processing vessels have generally ranged from mid-February to mid-March, with the earliest date in 2008.

Table 22 Earliest landing date for Pacific cod harvested by catcher vessels in Area 541 or 542, by processing sector, 1994 – 2009

| Year | AFA | Am. 80 | Crab | Other mothership | Shoreside |
|-------------------|--------|--------|--------|------------------|-----------|
| 1994 | -- | -- | -- | 19-Mar | 5-Mar |
| 1995 | -- | -- | -- | 11-Mar | 2-Mar |
| 1996 | 9-Mar | -- | 23-Mar | 2-Mar | 8-Mar |
| 1997 | 1-Mar | -- | -- | 1-Mar | 26-Feb |
| 1998 | 14-Mar | -- | -- | 28-Feb | 9-Mar |
| 1999* | 13-Mar | 20-Mar | 25-Sep | 8-May | 24-Feb |
| 2000 | -- | -- | 19-Feb | 19-Feb | 10-Jan |
| 2001 | -- | -- | 19-Mar | 15-Apr | 21-Jan |
| 2002 | -- | -- | 13-Mar | -- | 4-Feb |
| 2003 | -- | -- | 28-Feb | -- | 7-Feb |
| 2004 | -- | 24-Mar | 4-Mar | -- | 12-Feb |
| 2005** | -- | -- | 3-Mar | -- | 9-Feb |
| 2006 | -- | -- | 27-Feb | 25-Sep | 6-Feb |
| 2007 | -- | 9-Mar | 7-Mar | 15-Jan | 25-Jan |
| 2008 ⁺ | -- | 1-Mar | 10-Feb | -- | 10-Jan |
| 2009 | -- | 7-Feb | 14-Mar | -- | 24-Jan |

Source: ADF&G fishtickets for shoreside deliveries 1994-2008 and mothership deliveries 2001-2008, & NMFS Blend data for mothership deliveries 1994-2000 & 2009. Excludes CDQ and AI State water cod fishery.

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

⁺Year Am. 80 was implemented.

The earliest landing dates for each year 1994 to 2009 in Area 542 only are provided in Table 23 below. Area 542 is broken out in this table, as there is a proposed option to establish a sideboard date that would only be based on and applied to Area 542. Thus, it is important to show the earliest landing dates in Area 542 only, under the status quo.

In comparing Table 22 and Table 23, the first landing dates appear to be generally earlier in Area 541 than 542, although they do not differ substantially for most sectors. One exception is 2007 for the Amendment 80 sector, in which the earliest landing date reported in Area 541 is March 9, but the earliest landing date reported for Area 542 is July 10. Another exception is 2009 for the shoreside sector, in which the earliest landing date reported in Area 541 is January 24, but the earliest landing date reported for Area 542 is March 7.

Again, the one AFA CP that has been operating in this capacity in the Aleutians since 2000 is exempt from this action and not included in the table below. In general, the earliest delivery dates for this AFA CP are one week to several weeks earlier in Area 541 compared to Area 542.

Under Alternative 1, one could expect the earliest landing dates in Area 541 and Area 542 to be similar to those in recent years, recognizing that season lengths, Pacific cod prices, and other market factors will contribute significantly to the future level of participation in the A season.

Table 23 Earliest landing date for Pacific cod harvested by catcher vessels in Area 542, by processing sector, 1994 – 2009

| Year | AFA | Am. 80 | Crab | Other mothership | Shoreside |
|-------------------|--------|--------|--------|------------------|-----------|
| 1994 | -- | -- | -- | -- | -- |
| 1995 | -- | -- | -- | -- | 13-Mar |
| 1996 | 16-Mar | -- | -- | -- | 8-Mar |
| 1997 | 15-Mar | -- | -- | 1-Mar | 27-Feb |
| 1998 | 14-Mar | -- | -- | 14-Mar | 9-Mar |
| 1999* | -- | -- | 25-Sep | 8-May | 7-May |
| 2000 | -- | -- | 18-Mar | 19-Feb | 24-Jan |
| 2001 | -- | -- | 22-Mar | 29-Apr | 12-Feb |
| 2002 | -- | -- | 18-Mar | -- | 8-Feb |
| 2003 | -- | -- | 8-Mar | -- | 27-Feb |
| 2004 | -- | 24-Mar | 4-Mar | -- | 17-Feb |
| 2005** | -- | -- | 12-Mar | -- | 16-Feb |
| 2006 | -- | -- | -- | 25-Sep | 14-Feb |
| 2007 | -- | 10-Jul | 14-Mar | -- | 3-Feb |
| 2008 ⁺ | -- | 6-Mar | 24-Feb | -- | 10-Jan |
| 2009 | -- | 7-Feb | -- | -- | 7-Mar |

Source: ADF&G fishtickets for shoreside deliveries 1994-2008 and mothership deliveries 2001-2008, & NMFS Blend data for mothership deliveries 1994-2000 & 2009. Excludes CDQ and AI State water cod fishery.

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

⁺Year Am. 80 was implemented.

Summary

In sum, recent history suggests that some portion of catcher vessel Pacific cod harvested in Areas 541 and 542 would continue to be delivered to and processed by vessels in the AFA, Amendment 80, and crab rationalization programs acting as motherships under Alternative 1. In the past several years (2003 – 2009), about 30 to 65 unique catcher vessels have harvested cod each year from these areas, with the majority of those vessels (from 19 to a high of 50 in 2008) delivering at least some portion of their cod to shoreside processors (refer back to Table 16). Several catcher vessels have also delivered cod to one or more of the rationalized processing sectors during this same time period. Each year, 2 to 4 vessels delivered to the AFA sector; 4 to 15 vessels delivered to the crab sector; and 1 to 4 vessels delivered to the Amendment 80 sector. Likely, several of these catcher vessels are affiliated with the processing vessels to which they have delivered, but it is not possible to quantify that number with certainty, due to a lack of company level data.

From 2003 to 2007, rationalized processing vessels received about an average of 29% of the CV cod landings from Areas 541 and 542, with the remaining 71% delivered onshore. The majority of the onshore deliveries have been to Adak Fisheries in the recent past, as it is the only shoreside plant with Pacific cod processing capacity in Area 541 or 542. In 2008, rationalized processing vessels received the majority share (57% in 2008) of CV cod landings, compared to the shoreside sector. Note that 2008 realized some of the highest cod prices in recent years, which may have enticed more mothership participation. In addition, 2008 was the first year that Amendment 80 was effective, thus potentially freeing up additional processing vessels (recall that one Amendment 80 vessel participated in 2007, two in 2008, and 1 in the 2009 A season). The increased activity in 2008 suggests that rationalized processing vessels may opportunistically come and go from the fishery, depending on market and fishery conditions.

The 2003 – 2007 average share of Pacific cod harvested by catcher vessels in Area 542 and delivered to the rationalized processing sectors was about 48%, with 51% delivered shoreside. If 2008 is included in the average for Area 542 only (2003 – 2008), the distribution is about the same. The 2008 data cannot be provided separately for Area 542, due to confidentiality issues. Although these data suggest that no influx of effort occurred in 2008, since 2008 data cannot be shown independently, no strong conclusion should be drawn in that regard.

Note that while the higher processing share to the offshore processing sectors in 2008 in part spurred the proposed action, the 2009 distribution between the offshore and onshore processing sectors thus far mirrors the 2003 – 2007 average. Through June 20, 2009, the rationalized processing vessels received about 29% of the CV cod landings from Areas 541 and 542, and the shoreside sector received 71%. The discussion in Section 2.6.3 outlines the substantial drop in Pacific cod prices from 2008 to 2009. The low prices thus far in 2009 may have inhibited some mothership participants to go to the Aleutian Islands, and there is general uncertainty about future prices and participation in future years. As of June 20, 2009, only 4 rationalized processing vessels received cod deliveries from catcher vessels harvesting in Area 541 and 2 in Area 542 (4 unique processing vessels in total). In addition, one of the primary crab processing vessels did not participate until the last two weeks of the Pacific cod A season in the Aleutian Islands, and the only AFA catcher processor that participates received AI catcher vessel cod deliveries harvested primarily from Area 543. (Note that this AFA CP is exempt from the proposed action regardless.) Thus, 2009 did not reflect the same level of mothership activity as 2008, and it is difficult to predict the level of mothership activity in future years. The expected effects of Alternative 1 can only be generally characterized.

Regarding the dates that the rationalized processing vessels first start taking catcher vessel cod deliveries, the one AFA CP that has been participating has consistently received deliveries from CV cod harvests in Area 541 or 542 ranging from early to mid-February. The first Amendment 80 deliveries were made in March in each of the years this sector participated, with the exception of 2009, in which the first delivery was February 7. Deliveries to crab processing vessels have generally ranged from mid-February to mid-March, and recent years have not been an exception. With the exception of the Amendment 80 sector in 2009, the earliest delivery dates for all sectors were in 2008, when prices were high, and many catcher vessels were participating. Under Alternative 1, one could expect the earliest landing dates in Area 541 and Area 542 to be similar to those in recent years, recognizing that high Pacific cod prices, and other favorable market conditions may induce early entry, while lower prices may induce later or reduced entry.

In sum, processing opportunities for catcher vessels have been relatively varied in the recent past, with Adak Fisheries receiving the majority of the shoreside deliveries. Under Alternative 1, one may expect this general level of competition to continue, recognizing that there are multiple factors, including Pacific cod prices, which may affect the level of future participation by both catcher vessels and processors. Lower ex-vessel and first wholesale prices may affect both the number of catcher vessels and the number of processors participating in the Pacific cod fishery in the Aleutians.

While the market decline affects all participating sectors, the effect is likely more significant on those processors that depend heavily on Pacific cod. As data for any particular processor cannot be provided without a confidentiality waiver, it is not possible to estimate an individual processor's dependence on processing Pacific cod relative to processing of other species. In addition, there are too few processors in each rationalized processing sector to provide that information by sector. However, one can generally characterize the AFA sector as being most dependent on BSAI pollock, the crab rationalization sector as being most dependent on crab, and the Amendment 80 sector as dependent on processing flatfish, Atka mackerel, AI POP, and Pacific cod. Also refer to Section 3.3.3, which includes a table showing the relative participation by species for each CP sector that has acted as a mothership for Pacific cod in Area 541 and 542 during recent years.

As previously discussed, there are only two shoreside processors in Areas 541, located in Adak and Atka. As Adak Fisheries waived confidentiality of its data, the data provided indicate that Pacific cod is the primary species processed by Adak Fisheries in Adak, with an average of about 85 percent of its total tonnage coming from Pacific cod harvested in Area 541 or 542 and the State water AI cod fishery. Halibut and sablefish are effectively the only species processed by Atka Pride Seafoods in Atka. The processor in Atka, has noted that it intends to expand its capacity to include both crab and Pacific cod, thus, there may be an opportunity to process some level of Pacific cod there in the future, should it become economically viable. Other shoreside processors have received Pacific cod harvested from Area 541 or 542, but relatively minor amounts compared to Adak. Under the status quo, the Adak and Atka shoreside processing plants will be subject to competition that arises with opportune entry and exit from rationalized processing vessels.

Note, however, that Adak Fisheries' has recently filed Chapter 11 bankruptcy, and the current situation is very fluid. In early August 2009, a different company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy. The company has several unpaid creditors, totaling several million dollars. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and related assets to a new company, Adak Seafood, LLC. Thus, it is uncertain whether a shorebased plant will be operational in Adak in the near or long-term future. Given the above, it is uncertain whether either of the shorebased processors located in Aleutian Islands will be processing Pacific cod in the near or long-term future under the status quo.

2.10 Alternative 2: Processing sideboards

2.10.1 Sideboard limit: Component 1, Options 1 & 3 and Component 2

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

Recall also that in December 2008, the Council modified the motion such that the proposed processing sideboards only affect AFA catcher processors and motherships that have not shown continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA. In effect, the motion exempts AFA processing vessels that have documented continuous processing participation in Area 541/542 in this manner since 1999. As only one AFA CP has continuous participation in this regard, the AFA sector affected by this action is comprised of the remaining 19 AFA CPs and 3 motherships listed in the AFA (refer to Section 2.4). Thus, while the one exempted AFA CP's processing history is provided in the background tables in the previous section (e.g., Table 16 and Table 17), in order to provide context for the action (i.e., annual percentage of Pacific cod processed offshore versus onshore), its history is not used in the numerator of any of the calculations for the proposed sideboards under Alternative 2.

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

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

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

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

Suboption 1. 3-year period prior to program implementation
AFA: 1996 – 1998
Crab: 2002 – 2004
Am. 80: 2005 – 2007

Suboption 2. 5-year period prior to program implementation
AFA: 1994 – 1998
Crab: 2000 – 2004
Am. 80: 2003 – 2007

Due to the potential combinations of options under Components 1 and 2, the suite of suboptions proposed under Option 1 and Option 3 to establish the sideboard limits is as follows (reorganized by staff in order to list all potential suites of years):

Option 1. Sideboard limit

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

- Suboption 1.
- a. the greatest amount delivered within 2005 – 2007
 - b. the greatest amount delivered within 2003 – 2007
 - c. the greatest amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)
 - d. the greatest amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)
- Suboption 2.
- a. the average annual amount delivered within 2005 – 2007
 - b. the average annual amount delivered within 2003 – 2007
 - c. the average annual amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)

- d. the average annual amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

Option 3. Sideboard limit

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

- Suboption 1.
 - a. the greatest amount delivered within 2005 – 2007
 - b. the greatest amount delivered within 2003 – 2007
 - c. the greatest amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)
 - d. the greatest amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)
- Suboption 2.
 - a. the average annual amount delivered within 2005 – 2007
 - b. the average annual amount delivered within 2003 – 2007
 - c. the average annual amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)
 - d. the average annual amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

The 16 processing sideboards resulting from the options and suboptions above are calculated below in Table 24. The estimated results of the proposed sideboard options are based on the data in Table 16 and Table 17 from the previous section, excluding 2008 and 2009, as these are not qualifying years. Recall that the Council also exempted one AFA CP with long-term, continuous processing history in the Aleutians, and thus, its history is not included in the numerator of the calculations of the processing sideboard options. ADF&G fishtickets were used for Pacific cod harvest data because processors are identified on nearly all fish ticket records. The NMFS Blend data identifies the catcher vessel processing sector (mothership or shoreside) of all processors, but is missing some data on the individual processing vessel or facility. Fishticket data prior to 2001 was supplemented with Blend mothership data, because motherships were not required to fill out fish tickets until 2000. When Blend mothership data was used to supplement the fish ticket data, the individual processing vessel information was researched to ensure that landings were assigned to the correct sector for the purposes of this action.

All of the steps to calculate the sideboard percentages cannot be shown due to confidential data. For all calculations, the numerator of the sideboard calculation is retained CV catch only, in the specified area(s), delivered to the processing vessels subject to the sideboard. The denominator is the corresponding total Pacific cod BSAI CV catch in those years.

The second and third columns of Table 24 show the resulting sideboards under Option 1, in which the sideboard is based on and applied to Areas 541 and 542 combined. The fourth and fifth columns of Table 24 show the resulting sideboards under Option 3, in which the sideboard is based on and applied to Area 542 only. Both Suboption 1 and Suboption 2 are applied to Option 1 and Option 3.

Suboption 1 is a ‘best year’ option. As noted previously, sideboards established under previous programs have not been based on a ‘best year’, but rather an average over a series of years. For Suboptions 1a and 1b, the analyst selected the best year within the suite of qualifying years shown for the combined three rationalized sectors, and the denominator is the corresponding total Pacific cod BSAI CV catch in those years. Thus, Suboption 1a and 1b are relatively straightforward. The results of Suboption b are confidential, since the year with the greatest amount of processing (2003) had only two unique processors.

For Suboption 1c and 1d, the suite of qualifying years is different for each rationalized sector. The analyst used the best year of the suite for each of the rationalized sectors, and summed those harvests. For example, for Suboption 1c, the AFA sector’s best year is 1997; the crab sector’s best year is 2003, and the Amendment 80 sector’s best year is 2007. Those harvests were summed and divided into the corresponding sum of the total BSAI CV Pacific cod harvest during 1997, 2003, and 2007. Because the best years for each rationalized sector do not change under Suboption c or Suboption d, the resulting sideboards are the same.

Table 24 Processing sideboards resulting from Component 1, Options 1 & 3, and Component 2

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

Source: ADFG Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Numerator of sideboard calculation under Option 1 is retained CV catch in Areas 541 & 542, delivered to processing vessels subject to the sideboard. Numerator of sideboard calculation under Option 3 is retained CV catch in Areas 542 only, delivered to processing vessels subject to the sideboard. Denominator of calculation for both options is total BSAI CV catch from NMFS Blend/catch accounting database.

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

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

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

For Suboption 2c and 2d, the suite of qualifying years is different for each rationalized sector. The analyst used the average of the three and five years prior to the implementation of each rationalization program for Suboption 2c and 2d, respectively. Those averages were summed and divided into the sum of the averages of the total BSAI CV Pacific cod harvest during those corresponding years. Because there is little difference in the average harvest during the three-year versus the five-year period, the sideboards do

not change substantially under Suboption c or Suboption d. Suboption 2d results in a slightly lower sideboard than Suboption 2c, since it averages in several very early years in which there was very little harvest delivered to the AFA and Amendment 80 sectors.

Under Option 1, in which the sideboard is based on and applies to Areas 541 and 542 combined, the resulting sideboards would range from 1.6% to 4.0% of the total catcher vessel portion of the BSAI Pacific cod ITAC. However, note that the sideboard resulting from Option 1, Suboption b is confidential, and thus could be outside of the range provided. The exemption of the one AFA CP with continuous participation in this manner results in a lower sideboard than would otherwise occur. The total CV Pacific cod portion of the ITAC is 34.1%, or 53,759 mt in 2009. Thus, under the 2009 TAC, the proposed (non-confidential) sideboard limits would represent a range of about 860 mt to 2,150 mt.

As stated above, in 2008, the majority of the cod harvested in Areas 541 and 542 has been delivered to the mothership/CP sectors (about 57%) compared to the shoreside sector (43%). The amount of harvest landed with each individual rationalized sector cannot be provided due to confidentiality issues, but the rationalized sectors in aggregate received cod deliveries totaling about 6,400 mt in 2008 (refer to Table 16). This equates to about 12% of the total BSAI CV Pacific cod ITAC in 2008, an amount higher than any sideboard option proposed. Thus, had the sideboard been in place in 2008, it would have constrained CV deliveries to motherships. Importantly, however, note that the reference to 6,400 mt includes processing history from the one exempted AFA CP, which is necessary to preserve confidentiality. If the exempted AFA CP history is excluded, the sideboard would be less constraining.

Through June 20, 2009, the rationalized mothership/CP sectors received about 3,460 mt of CV cod harvested in Areas 541/542, which represents about 29% of the total CV harvest from these areas. This equates to about 6% of the 2009 BSAI CV Pacific cod ITAC. As the maximum sideboard (non-confidential) is 4.0%, the sideboard also would have been constraining to motherships had it been in place in 2009. Note again, however, that the reference to 3,460 mt includes processing history from the one exempted AFA CP, which is necessary to preserve confidentiality. If the exempted AFA CP history is excluded, the sideboard would be less constraining, if at all. In addition, as the 2009 fishery is not yet completed, it is not possible to estimate what level of constraint the sideboard might impose.

In a broader context, the proposed Area 542 sideboard limits represent about 0.5% to 1.4% of the overall BSAI Pacific cod ITAC.⁶⁸ Note also that as the BSAI Pacific cod TAC is not allocated between the BS and AI, the catcher vessel sectors do not have to harvest any portion of their Pacific cod allocations in Areas 541 or 542. **In the recent past (2002 – 2008), catcher vessels have been harvesting an average of about 22 percent of their total BSAI Pacific cod harvest in Areas 541/542.** If CVs continued their average harvest in these areas, that suggests that about 7.5% (22% x 34.1% CV allocation) of the total BSAI ITAC could be estimated to be harvested in Areas 541/542 by catcher vessels (Table 3). This means that the sideboard limits could represent about 8.0% to 18.7% of the total CV catch in Areas 541/542, if average harvest distribution continues.⁶⁹

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

⁶⁸Lowest range of sideboard: 1.6% sideboard multiplied by 34.1% CV ITAC = 0.5%. Highest range of sideboard: 4.0% sideboard multiplied by 34.1% CV ITAC = 1.4%.

⁶⁹Lowest range of sideboard: 0.5% of BSAI Pacific cod ITAC divided by 7.5% = 6.6%. Highest range of sideboard: 1.4% of BSAI Pacific cod ITAC divided by 7.5% = 18.7%.

As stated previously, the average distribution of cod harvested by catcher vessels in Area 542 from 2003 - 2008 was about 52% shoreside and 48% to the mothership/CP sector. The amount of harvest landed with each individual rationalized sector cannot be provided due to confidentiality issues, nor can 2008 or 2009 annual harvests for the rationalized processing sectors be provided, as there were only two unique processors in each year (refer to Table 17). The most recent year in which at least 3 rationalized processors participated as motherships in Area 542 was 2007 (this excludes the one AFA CP exempt from the proposed action). About one hundred metric tons of Area 542 cod was delivered to 3 rationalized processing vessels in 2007, which equates to about 0.2 percent of the total BSAI CV Pacific cod ITAC. Thus, all but one of the proposed Area 542 sideboards would not have been constraining had they been in place.

In a broader context, the proposed sideboard limits represent about 0.03% to 0.3% of the overall BSAI Pacific cod ITAC.⁷⁰ **Again, while the catcher vessel sectors do not have to harvest any portion of their Pacific cod allocations in Area 542, in the recent past, they have been harvesting an average of about 3.3 percent of their total BSAI Pacific cod harvest in Area 542.** If CVs continued their average harvest in Area 542, that suggests that about 1.1% (3.3% x 34.1% CV allocation) of the total BSAI ITAC could be estimated to be harvested in Area 542 by catcher vessels. This means that the sideboard limits could represent about 2.7% to 27.2% of the total CV catch in Area 542, if average harvest distribution continues.⁷¹

In sum, should the Council limit the proposed processing sideboard only to CV cod landings in Area 542, it would represent a much smaller effect on the affected mothership sectors, as well as smaller ‘protections’ for the onshore processing sector. Overall, it may be relatively easy to circumvent the intent of a processing sideboard limited to Area 542, as the rationalized mothership/CP sector and associated catcher vessels could choose to harvest cod only in Area 541 (or other areas within the BSAI), where the majority of the cod harvest has been taken to date.

2.10.1.1 Summary

A sideboard is typically established to limit a sector’s harvesting or processing activity to its historical share, when excess harvesting and/or processing capacity is likely, due to the sector’s participation in a rationalization program. The intent is to prevent the rationalized sector from expanding its share in other fisheries due to freed capacity entering other fisheries eroding the shares of other non-rationalized participants. In this case, the concern is that the lack of sideboards on processing of the BSAI Pacific cod CV allocations by rationalized processing vessels (e.g., AFA, BSAI crab rationalization, Amendment 80) has preempted, and will continue to preempt, an opportunity for these harvests to benefit vessels primarily operating out of Adak, shoreside processors, and the communities of Adak and Atka. There are concerns that the transient markets provided by motherships, floating processors, and catcher processors acting as motherships, may serve to undermine community stability by making it more difficult for shorebased processors to remain in business and provide year-round markets to smaller vessels participating in a suite of fisheries. Pacific cod has been the primary fishery supporting the shoreside processor in Adak; while Pacific cod harvested outside of Atka has typically been processed by a (crab) mothership. The shoreplant in Atka is currently being reconstructed, with the intent to add Pacific cod processing capacity; however, it is uncertain whether it will be at the level necessary to make it economically viable in the future.

The proposed action under Alternative 2, Option 1, is to establish a sideboard for the three rationalized sectors that have a processing component. The sideboard would limit the amount that the three

⁷⁰Lowest range of sideboard: 0.1% sideboard multiplied by 34.1% CV ITAC = 0.03%. Highest range of sideboard: 0.8% sideboard multiplied by 34.1% CV ITAC = 0.3%.

⁷¹Lowest range of sideboard: 0.03% of BSAI Pacific cod ITAC divided by 1.1% = 2.7%. Highest range of sideboard: 0.3% of BSAI Pacific cod ITAC divided by 1.1% = 27.2%.

rationalized sectors could receive of Pacific cod harvested by catcher vessels in Areas 541 and 542 combined, or Area 542 only. The sideboard would be a percentage of the total combined catcher vessel Pacific cod allocations, translated into metric tons on an annual basis during the specifications process.

The direct effects of the sideboard options are provided in Table 24. The sideboard is proposed to be based on either the greatest amount or average amount of Pacific cod delivered to the rationalized processing sectors over a series of years. The series of years are either a recent three or five-year period, or the three or five years prior to each rationalization program. Basing the sideboard on the historical share of Pacific cod harvested in these two areas and delivered to the rationalized processing sectors creates a sideboard that ranges from 1.6 percent to 4.0 percent of the total catcher vessel portion of the BSAI Pacific cod ITAC. Under the 2009 TAC, the proposed sideboard limit would represent about 860 mt to 2,150 mt.

Much of the concern prompting this action stemmed from the 2008 A season for Pacific cod in the Aleutians. The shoreside sector has received an increasing share of the Eastern and Central AI Pacific cod deliveries starting in 1999, when the shoreplant was opened in Adak (refer to Table 16). During 2003 - 2007, the shoreside processing sector's average share was almost 72% of the total retained CV harvest in Area 541 and 542 combined (refer to Table 19), with an average share of 29% delivered to the rationalized offshore processing sectors.⁷² In 2008, the shoreside processing share was 43%, much reduced compared to the recent 5-year average. The offshore rationalized sectors received a majority (57%) of the deliveries in that year (see Table 16). For the shoreside plant in Adak in particular, the average 2003 – 2007 share of Pacific cod from the Federal TAC in Areas 541 and 542 was 70%; in 2008, this share dropped to 38% (see Table 21).

Note that 2008 realized some of the highest cod prices in recent years, which may have enticed more mothership participation. In addition, 2008 was the first year that Amendment 80 was effective, thus potentially freeing up additional processing capacity, allowing vessels to be active for an extended time (recall that one Amendment 80 vessel participated in 2007, two in 2008, and 1 in the 2009 A season). The increased activity in 2008 suggests that rationalized processing vessels may opportunistically come and go from the fishery, depending on market and fishery conditions.

However, the 2009 A season was much different from 2008, likely due to a severely declining Pacific cod market. During the 2009 A season, ex-vessel Pacific cod prices were about half of their high in 2008. The A season was longer than in years past, and fewer catcher vessels participated overall. In 2009 thus far (through June 20), one AFA CP, one Amendment 80 CP, and 2 crab processing vessels received catcher vessel cod deliveries, as did three shoreside processors. Thus far in 2009, the shoreside processing sector received about 71% of the catcher vessel cod harvested in Area 541 or 542, which relates closely to the 2003 – 2007 average. The 2009 preliminary A season data specific to Adak Fisheries cannot be reported, due to confidentiality issues with the other two shoreside processors participating.

Thus, in some years, the sideboard may be constraining on the rationalized processing sectors, while in other years, it may have no direct effect. The rationalized processing sectors may participate in this fishery when Pacific cod prices are high, for example, or when TACs for other species (e.g., pollock) are low. The purpose of a sideboard is to limit opportunistic behavior that is possible in a rationalized sector.

Recall also that the Council added an option in December 2008 that would limit the action to mothership deliveries of catcher vessel cod harvested in Area 542 only (Component 1, Option 3). Overall, the great majority of the CV harvest of Pacific cod from these two AI areas comes from Area 541 (85%) versus

⁷²This percentage includes a limited amount of deliveries going to one 'other mothership' that is not included in any of the rationalized processing sectors in 2006 and 2007.

Area 542 (15%).⁷³ The resulting Area 542 sideboard would range from 0.1 percent to 0.8 percent of the total catcher vessel portion of the BSAI Pacific cod ITAC. Under the 2009 TAC, the proposed sideboard limit would represent about 54 mt to 430 mt.

Note also that the percentage of CV cod harvest from Area 542 delivered onshore versus offshore varies significantly on an annual basis. Because the total annual harvest in Area 542 is relatively small, even a few deliveries greatly influence the results and provide substantial annual variability. On average during 2003 – 2008, the mothership/CP sector received about 48% of the CV cod harvested in Area 542, and the shoreside sector received about 52%.

Overall, one concern is that the proposed action under Alternative 2 would not provide the intended benefits to shoreside processors. Note that if a sideboard was established that limited deliveries to AFA, crab rationalization, and Amendment 80 CPs/floaters/motherships, catcher vessels could continue to deliver to motherships or floating processors not in one of these rationalized sectors or shoreside processors, without regulatory limits. Also in December, the Council exempted AFA processing vessels that have shown ‘continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA.’ Only one AFA CP has continuous participation operating in this capacity, thus, this vessel’s history is not used to calculate the numerator of the proposed sideboards, nor would it be subject to those sideboards.⁷⁴ Thus, catcher vessels could continue to deliver to the exempted AFA processing vessel without restriction. The exempted AFA CP could potentially realize an increased share of the overall CV Pacific cod harvested in Areas 541 and 542, particularly if it is the only mothership operating in the area in the A season, under the exemption. Deliveries to the exempted AFA catcher processor or ‘other’ motherships or floating processors could negate the purpose of the proposed action with regard to shoreside processors. As provided in the tables, only one to two ‘other’ motherships/floaters, that are not part of the rationalized sectors, have taken CV deliveries of Pacific cod harvested in Area 541 or 542 since 2000. In some years, no ‘other’ motherships participated.

Concerns have also been raised regarding the potential for stranding fish in the Aleutians, in the event that ‘other’ floaters are not available, the Adak plant is not operating in a given year, and/or the plant in Atka is not processing Pacific cod. Because the fishery is currently managed under a combined BSAI Pacific cod TAC, ‘stranding fish’ is not a likely scenario, unless the BSAI TAC cannot be fully harvested in the Bering Sea and Area 543 (western Aleutian Islands). That issue spurs the possibility that restricting processing opportunities in Areas 541 and 542 could result in some catcher vessels shifting their operations to either the Bering Sea or Area 543. This possibility exists unless and until the BSAI Pacific cod TAC is split into two separate areas TACs for the BS and the AI, an action which the Council will discuss in April 2010, and may be directly influenced by the results of the ongoing Steller sea lion Biological Opinion, also scheduled for review in April 2010. Note that the proportionate amount of AI Pacific cod currently harvested by catcher vessels in Area 543 is very low (5%) compared to Area 541 (80%) and Area 542 (15%). In addition, the ability for catcher vessels to harvest Pacific cod in Area 543 also may be significantly influenced by the results of the Steller sea lion Biological Opinion. Clearly, it is not possible to know the extent to which individual operations would shift to other areas due to the proposed action, but the possibility exists.

The action is intended to benefit catcher vessels and shoreside processors in Adak, as cod landings in Adak would support the plant and help to provide the year-round markets necessary for Adak-based smaller vessels that participate in several fisheries. Restrictions on offshore deliveries could also benefit shoreside processors in other communities, such as Dutch Harbor and Akutan, although other shoreside

⁷³Based on the 1994 – 2008 average distribution between the two areas. The most recent nine years result in the same average distribution between areas.

⁷⁴This is consistent with other sideboard exemptions created in the AFA and the crab rationalization programs, in that history from exempted vessels is not included in the numerator of the sideboard calculation.

processors have received relatively small amounts of Pacific cod harvested in Areas 541 and 542 compared to Adak. This action could also potentially benefit the community of Atka and its shoreside processor, if the processor expands its capacity to process crab and Pacific cod to the extent that it is economically viable to process cod in the future. However, representatives of Atka and Atka Pride Seafoods have expressed opposition to the proposed action at previous Council meetings and in personal communications, indicating that a reliance on and relationship with a floating processor is necessary in the short, and possibly, long-term, in order to process crab and Pacific cod and benefit the community.

Ultimately, the proposed action serves to limit the markets available to all catcher vessels harvesting Pacific cod in the Eastern and Central Aleutians. Processing opportunities were already more limited in 2009 compared to prior years, likely due to declining Pacific cod markets. The primary mothership vessel that operated near Adak in 2008 did not go out to Adak in the 2009 A season, and there was not significant participation from any other mothership in Area 541 or 542. **In addition, since the initiation of this regulatory amendment, Adak Fisheries' financial situation has changed and future operation of the plant has become uncertain.** Minimal information is reported here, as much is anecdotal or confidential, and circumstances are changing sufficiently rapidly such that information reported here may not be up-to-date. Adak Fisheries essentially stopped processing after the 2009 Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April). The plant is currently in 'hibernation mode,' running off of limited power. In early August 2009, a different company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy. The company has several unpaid creditors, totaling several million dollars. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and related assets to a new company, Adak Seafood, LLC.⁷⁵ In sum, it is uncertain whether a shorebased plant will be operational in Adak in the near or long-term future. Thus, while part of the original purpose of establishing separate catcher vessel sector allocations by gear type was to provide additional opportunities for harvest by smaller catcher vessels, this action may serve to reduce the operational flexibility, markets, and negotiating leverage of AI catcher vessels, which could potentially lead to a lower price for their catch.

In sum, the proposed action is intended to limit the AFA, crab, and Amendment 80 sectors' mothership processing activity of CV Pacific cod harvested in Area 541 and 542 to its historical share. In effect, Alternative 2 is designed to limit the percentage of Pacific cod delivered to these vessels so that it mirrors a year or series of years, similar to the status quo. Under a sideboard that applies to Area 541 and 542 combined (Component 1, Option 1), the sideboards range from 1.6% to 4.0% of the BSAI catcher vessel Pacific cod ITAC. Note also that basing the sideboard on the average of the three most recent qualifying years (2005 – 2007) results in the lowest sideboard percentage; while basing the sideboard on the greatest amount delivered in the 3 or 5 years prior to implementation of each program results in the highest sideboard percentage, recognizing that the results of one option (Option 1, Suboption b) are confidential. Regardless, the resulting sideboards do not differ significantly under any of the suboptions under Option 1. While the proposed sideboards may have been constraining on the rationalized processing sectors in 2008, they would likely have been less so, if at all, in 2009.

Similarly, under a sideboard that applies only to Area 542 (Component 1, Option 3), the range of the proposed sideboards is from 0.1% to 0.8%, thus, there is not a substantial difference between any of the proposed suboptions. While annual 2008 and 2009 data for Area 542 cannot be provided due to confidentiality, the proposed sideboards for Area 542 would not have been constraining on the

⁷⁵The notice for the hearing (Case No. 09-00623 DMD, dated October 9, 2009) states that the motion is to obtain Court authority to sell the plant and related assets to Adak Seafood, LLC, a newly formed Delaware limited liability company affiliated with Drevik International. Kjetil Solberg, former owner of Adak Fisheries, also has a relationship to the buyer. The sales price is \$488,000, plus assumption of the debtor's entire obligation to Independence Bank of approximately \$6.7 million. The sale is to be free and clear of the claims, liens, and interests of all persons receiving notice of the motion, except Independence Bank; and the claims, liens, and interests of all such persons (excluding Independence Bank) shall attach to the sale proceeds to the same extent and in the same order of priority as existed in the underlying property.

rationalized processing sectors in 2007. Should the Council limit the proposed processing sideboard only to CV cod landings in Area 542, it would represent a much smaller effect on the affected mothership sectors, as well as smaller ‘protections’ for the onshore processing sector. Of the Pacific cod from the Federal fishery delivered to Adak from these two areas in recent years, an average of 88% was harvested in Area 541 and 12% in Area 542.⁷⁶ Thus, it may be relatively easy to circumvent the intent of a processing sideboard limited to Area 542, as the rationalized mothership/CP sector and associated catcher vessels could choose to accept landings of harvests only from Area 541, where the majority of the cod harvest has been taken between the two areas.

Thus, depending on market conditions and other opportunities, the sideboard may be constraining on the rationalized processing sectors in some years, while in other years, it may have no direct effect. For example, if Pacific cod prices remain low and TACs for other target species are high, fewer rationalized processing vessels may choose to participate in the AI Pacific cod fishery. The variability of participation on an annual basis will be based on many factors, but is reliant on the ability to participate opportunistically due to the rationalized management systems.

2.10.2 Sideboard date: Component 1, Options 2 & 3, and Component 2

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

Note also that Component 1, Option 2 could be selected in tandem with Option 3, which would limit the sideboard date to apply only to catcher vessel deliveries of Pacific cod harvested in Area 542. Due to the potential combinations of options under Components 1 and 2, the suite of suboptions under Options 2 and 3 is essentially as follows (note that staff organized the combination of components below to correspond to Suboptions 1a, 1b, 1c, 1d, and Suboptions 2a, 2b, 2c, and 2d):

Option 2. Sideboard date

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

- | | |
|--------------|--|
| Suboption 1. | <ul style="list-style-type: none"> a. the earliest date a delivery was taken in 2005 – 2007 b. the earliest date a delivery was taken in 2003 – 2007 c. the earliest date a delivery was taken in (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007).⁷⁷ d. the earliest date a delivery was taken in (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007) |
| Suboption 2. | <ul style="list-style-type: none"> a. the average earliest date a delivery was accepted within 2005 – 2007 b. the average earliest date a delivery was accepted within 2003 – 2007 c. the average earliest date a delivery was accepted within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)⁷⁸ |

⁷⁶Based on 2002 – 2008. Including the Federal Pacific cod 2009 A and B seasons (through April 5) does not change this distribution.

⁷⁷For a single sideboard (Component 3, Option 1), it is assumed that Suboption 1c and 1d mean to use the earliest date a delivery was taken by any of the combined sectors in any of the years identified (i.e., the earliest date by all years reviewed).

⁷⁸For a single sideboard (Component 3, Option 1), it is assumed that Suboption 2c and 2d mean to use the average earliest date a delivery was taken by the combined sectors across all of the years identified (i.e., an average of the average dates).

- d. the average earliest date a delivery was accepted within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

Option 3. Sideboard date

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

- Suboption 1.
 - a. the earliest date a delivery was taken in 2005 – 2007
 - b. the earliest date a delivery was taken in 2003 – 2007
 - c. the earliest date a delivery was taken in (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007).⁷⁹
 - d. the earliest date a delivery was taken in (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)
- Suboption 2.
 - a. the average earliest date a delivery was accepted within 2005 – 2007
 - b. the average earliest date a delivery was accepted within 2003 – 2007
 - c. the average earliest date a delivery was accepted within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)⁸⁰
 - d. the average earliest date a delivery was accepted within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

The earliest landing dates for all of the qualifying years in the combined Areas 541/542 are provided in Table 25 below; these dates are used to calculate all of the suboptions under Component 1, Option 2. This table shows the earliest landing dates for Pacific cod harvested by catcher vessels in Area 541 or 542, by processing sector, from 1994 through 2009. Generally, over this time period, the landing dates for the shoreside sector have moved from early March to early February or late January, with a few exceptions. While 2008 is not a qualifying year, these were the earliest delivery dates for both the crab and shoreside sectors.

Mothership activity by the AFA CP that is exempt from this action is not included. Note that with the exemption of the one AFA CP that has long-term participation in these areas, catcher vessel deliveries to the remaining AFA processing vessels are limited to the four years prior to 2000, in early to mid-March. The only Amendment 80 deliveries were made in March, with the exception of 2009, in which the earliest delivery was February 7. Deliveries to crab processing vessels have generally ranged from mid-February to mid-March.

Recall also that most gear sectors, including the trawl CV sector, prefer to take the majority of their harvest in the first (A) season, as a result of higher catch per unit effort due to increased aggregation of cod, as well as market and weather conditions. The regulatory trawl A season is January 20 – April 1. The vast majority of the CV Pacific cod harvested in Area 541 and 542 and delivered to the rationalized sectors at issue has been during the A season; typically 80% to 100% of the total amount delivered. Smaller amounts are delivered during the B season (April 1 – June 10) and C season (June 10 – Nov 1).

⁷⁹For a single sideboard (Component 3, Option 1), it is assumed that Suboption 1c and 1d mean to use the earliest date a delivery was taken by any of the combined sectors in any of the years identified (i.e., the earliest date by all years reviewed).

⁸⁰For a single sideboard (Component 3, Option 1), it is assumed that Suboption 2c and 2d mean to use the average earliest date a delivery was taken by the combined sectors across all of the years identified (i.e., an average of the average dates).

Table 25 Earliest landing date for Pacific cod harvested by catcher vessels in Area 541 or 542, by processing sector, 1994 - 2009

| Year | AFA | Am. 80 | Crab | Other mothership | Shoreside |
|-------------------|--------|--------|--------|------------------|-----------|
| 1994 | -- | -- | -- | 19-Mar | 5-Mar |
| 1995 | -- | -- | -- | 11-Mar | 2-Mar |
| 1996 | 9-Mar | -- | 23-Mar | 2-Mar | 8-Mar |
| 1997 | 1-Mar | -- | -- | 1-Mar | 26-Feb |
| 1998 | 14-Mar | -- | -- | 28-Feb | 9-Mar |
| 1999* | 13-Mar | 20-Mar | 25-Sep | 8-May | 24-Feb |
| 2000 | -- | -- | 19-Feb | 19-Feb | 10-Jan |
| 2001 | -- | -- | 19-Mar | 15-Apr | 21-Jan |
| 2002 | -- | -- | 13-Mar | -- | 4-Feb |
| 2003 | -- | -- | 28-Feb | -- | 7-Feb |
| 2004 | -- | 24-Mar | 4-Mar | -- | 12-Feb |
| 2005** | -- | -- | 3-Mar | -- | 9-Feb |
| 2006 | -- | -- | 27-Feb | 25-Sep | 6-Feb |
| 2007 | -- | 9-Mar | 7-Mar | 15-Jan | 25-Jan |
| 2008 ⁺ | -- | 1-Mar | 10-Feb | -- | 10-Jan |
| 2009 | -- | 7-Feb | 14-Mar | -- | 24-Jan |

Source: ADFG Fishtickets for shoreside deliveries 1994-2008 and mothership deliveries 2001-2008, & NMFS Blend data for mothership deliveries 1994-2000 & 2009 data. Excludes CDQ and AI State water cod fishery.

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

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

⁺Year Am. 80 was implemented.

The earliest landing dates for all of the qualifying years in Area 542 only are provided in Table 26 below. These dates are used to calculate Component 1, Option 3, in which the sideboard date would only be based on and applied to Area 542. Again, 2008 and 2009 are provided for comparison, even though they are not qualifying years. In comparing Table 25 and Table 26, the landing dates appear to be generally earlier in Area 541 than 542, although they do not differ substantially in most cases. The primary exception is 2007 for the Amendment 80 sector, in which the earliest landing date reported in Area 541 is March 9, and the earliest landing date reported for Area 542 is July 10. (This would clearly impact the resulting sideboard dates calculated, as this sector has few years in which to base the options.)

Table 26 Earliest landing date for Pacific cod harvested by catcher vessels in Area 542, by processing sector, 1994 - 2009

| Year | AFA | Am. 80 | Crab | Other mothership | Shoreside |
|-------------------|--------|--------|--------|------------------|-----------|
| 1994 | -- | -- | -- | -- | -- |
| 1995 | -- | -- | -- | -- | 13-Mar |
| 1996 | 16-Mar | -- | -- | -- | 8-Mar |
| 1997 | 15-Mar | -- | -- | 1-Mar | 27-Feb |
| 1998 | 14-Mar | -- | -- | 14-Mar | 9-Mar |
| 1999* | -- | -- | 25-Sep | 8-May | 7-May |
| 2000 | -- | -- | 18-Mar | 19-Feb | 24-Jan |
| 2001 | -- | -- | 22-Mar | 29-Apr | 12-Feb |
| 2002 | -- | -- | 18-Mar | -- | 8-Feb |
| 2003 | -- | -- | 8-Mar | -- | 27-Feb |
| 2004 | -- | 24-Mar | 4-Mar | -- | 17-Feb |
| 2005** | -- | -- | 12-Mar | -- | 16-Feb |
| 2006 | -- | -- | -- | 25-Sep | 14-Feb |
| 2007 | -- | 10-Jul | 14-Mar | -- | 3-Feb |
| 2008 ⁺ | -- | 6-Mar | 24-Feb | -- | 10-Jan |
| 2009 | -- | 7-Feb | -- | -- | 7-Mar |

Source: ADFG Fishtickets for shoreside deliveries 1994-2008 and mothership deliveries 2001-2008, & NMFS Blend data for mothership deliveries 1994-2000 & 2009 data. Excludes CDQ and AI State water cod fishery.

Note: The one AFA CP exempt from this action for its long-term participation is not included in this table.

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

⁺Year Am. 80 was implemented.

The sideboard dates resulting from the suboptions under Options 2 and 3 are shown below in Table 27. For all calculations, the date provided reflects the earliest or average date (depending on the suboption) that the rationalized sectors received a catcher vessel delivery of Pacific cod harvested in Area 541/542 or Area 542 only.

Suboptions 1a and 1b for the sideboard date options are calculated as the earliest dates among any of the rationalized sectors within the 2005 – 2007 and 2003 – 2007 periods, respectively. For example, the earliest date a cod delivery was received by any of the three rationalized sectors in 2005 – 2007 in Area 541/542 was February 27 (by a crab processing vessel). Thus, February 27 would be the sideboard date applied to all three rationalized sectors under Component 1, Option 2, Suboption 1a.

Suboption 1c and 1d were calculated as the earliest dates for each sector within the three or five years prior to implementation of each rationalization program, respectively. For example, under Suboption 1c for Area 541/542 combined, the analyst evaluated the earliest delivery date taken in 1996, 1997, or 1998 for the AFA sector; 2002, 2003, or 2004 for the crab sector; and 2005, 2006, or 2007 for the Amendment 80 sector.⁸¹ Out of those 9 years for those particular sectors, the earliest delivery date overall was February 28.

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

⁸¹Staff recognizes that there could be a different interpretation of how to calculate the single sideboard options under Suboption 1c and d. For example, under Suboption 1c, one could also interpret the language to mean to use the earliest delivery date in 1996, 1997, 1998, 2002, 2003, 2004, 2005, 2006, or 2007 for any of the three rationalized sectors.

program, respectively. Then those three dates were averaged to find an average date that would apply to a single sideboard for all three sectors combined. The Council should clarify if any of these approaches do not meet its intent.

Table 27 Sideboard dates resulting from Component 1, Options 2 & 3, and Component 2

| Processing sideboard date options | Sideboard date (Option 2: Area 541 & 542) | Sideboard date (Option 3: Area 542 only) |
|---|---|--|
| Suboption 1. earliest date delivered within... | | |
| a. 2005 – 2007 | Feb 27 | Mar 12 |
| b. 2003 – 2007 | Feb 27 | Mar 4 |
| c. 3 yrs prior to program implementation | Feb 28 | Mar 4 |
| d. 5 yrs prior to program implementation | Feb 19 | Mar 4 |
| Suboption 2. average earliest date delivered within... | | |
| a. 2005 – 2007 | Mar 3 | Mar 13 |
| b. 2003 – 2007 | Mar 2 | Mar 9 |
| c. 3 yrs prior to program implementation | Mar 7 | Apr 19 |
| d. 5 yrs prior to program implementation | Mar 10 | Mar 14 |

Source: ADFG Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Excludes CDQ and AI State water cod fishery. Note: Only one AFA CP received CV deliveries of cod harvested in Area 541/542 since 2000. This CP is exempt from this action, thus its history is not used to calculate the sideboard dates.

Note that in the December 2008 discussion paper⁸² on this issue, the AFA sector determined the earliest dates for the combined sideboard options under Suboptions 1a and 1b and Suboptions 2a and 2b, as this sector had the earliest CV deliveries of cod in the most recent years (2003 – 2007). However, only one AFA CP contributed to that mothership history; no other AFA processing vessels had such participation since 1999. Thus, with the exemption of that one AFA CP, the single sideboard dates resulting from options based on years within 2003 to 2007 are largely determined by the crab sector. The Amendment 80 sector has had only three years of participation as motherships in this fishery during the qualifying years, with two of those during 2003 – 2007.

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

In effect, a sideboard date based on activity in Area 541 and 542 (Component 1, Option 2) would allow catcher vessel deliveries of cod to the affected processing sectors earlier in the year than a sideboard date only for Area 542 (Component 1, Option 3). Overall, however, the same discussion of catcher vessel cod harvest discussed under the sideboard options (Component 1, Option 1) is likely the more significant issue. Because the vast majority of the Pacific cod harvested by catcher vessels in these areas is from Area 541, a sideboard date that applies only to Area 542 is not likely to substantially affect the status quo. It would be relatively easy for the rationalized mothership/CP sector and associated catcher vessels to

⁸²<http://www.fakr.noaa.gov/npfmc/analyses/CodCommunity1208.pdf>

circumvent the intent of a processing sideboard date that only applies to Area 542. While the intent is to preclude offshore deliveries prior to a certain date, these vessels could choose to limit cod harvest only to Area 541 or other areas of the BSAI, where the majority of the cod harvest has been taken to date.

Another primary effect of the proposed sideboard dates is that they do not necessarily reflect each individual sector's historical mothership processing activity. This is because the date is determined by either selecting the earliest date a delivery was accepted by any of the three rationalized sectors over a series of years, or averaging the earliest date a delivery was accepted by any of the three rationalized sectors over a series of years – and then applying this date as a limit on all three sectors combined. The suboptions that reflect simply the earliest date or earliest average date during 2005 – 2007 or 2003 – 2007 do not incorporate activity from each of the rationalized processing sectors (i.e., Suboptions 1a, 1b, 2a, and 2b).⁸³

Likewise, the suboptions that reflect the earliest date delivered within the 3 or 5 years prior to each implementation program only reflect the activity of the earliest sector (Suboption 1c and 1d). These suboptions treat all three sectors as if they are one sector. Only the suboptions that average the earliest dates in the years prior to participation in each rationalization program (Suboptions 2c and 2d) necessarily include each sector's historical dates in the calculations, even though they are averaged with the other two sectors. Overall, under all of the suboptions, sectors that typically processed later in the year will benefit from the activity of the sector that processed earliest in the year.

This effect is most significant on the Amendment 80 sector and the AFA sector, mainly due to the limited number of vessels and years in which the Amendment 80 sector has had mothership activity in the Aleutian Islands cod fishery, and the fact that the only AFA vessel with mothership activity in the AI since 2000 is exempt from the proposed action (and thus its activity is not included in the calculations). The Amendment 80 sector has only two years of mothership activity during the qualifying years, in 2004 and 2007, and the mothership activity occurred later in the year than that of the crab sector. For the AFA sector, excluding the exempted CP, there are only four years of mothership activity, from 1996 – 1999. Because these are early years, they do not affect the results of any of the sideboard dates calculated using the most recent qualifying years. The Amendment 80 and AFA sector activity only influence the dates under Suboptions 2c and 2d, in which the average delivery date is calculated for each sector during the three or five years prior to each rationalization program; then the average of those three dates results in the sideboard date for all sectors combined. Thus, cod deliveries received by the crab sector most affected the sideboard dates resulting from the proposed options, and determined all of the dates under Suboption 1 (a – d) and Suboption 2a and b.

Note the difference between the *actual dates* of the first cod deliveries to the AFA and Amendment 80 sectors and the *proposed sideboard dates*. Under a sideboard date that applies to CV deliveries of cod harvested in either Area 541 or 542, the dates under Suboption 1 range from February 19 to February 28. This is one to two weeks earlier than the average of the actual dates realized by the AFA sector, with the exception of the exempted AFA CP vessel.⁸⁴ Under Suboption 2, the sideboard dates range from March 2 to March 10, and are relatively aligned with the actual AFA average. However, these differences may be considered a negligible impact on the AFA sector compared to the status quo, as the only AFA CP that has been actually acting as a mothership for AI Pacific cod is exempt from the action and could continue to take deliveries at any time (i.e., would not be subject to a sideboard date).

Relative to the Amendment 80 sector, the Area 541/542 sideboard dates proposed under Suboption 1 are one to two weeks earlier than the average of the Amendment 80 sector's actual dates of first cod

⁸³Suboptions 2a and 2b, by design, could include activity from each sector. It just happens that the crab sector has the earliest landing dates in each year during 2003 – 2007, thus, the sideboard dates are determined only by the crab sector.

⁸⁴Using the four years of AFA activity in Areas 541/542 (1996 – 1999), the average earliest date for this sector is March 9.

deliveries, including 2008 and 2009.⁸⁵ Under Suboption 2, the sideboard dates are only slightly (3 to 11 days) earlier than the Amendment 80 average.

Under a sideboard date that applies to CV deliveries of cod harvested only in Area 542, the dates under Suboption 1 range from March 4 to March 12. This is 3 to 11 days earlier than the average of the actual dates realized by the AFA sector, with the exception of the exempted AFA CP vessel.⁸⁶ Under Suboption 2, the sideboard dates range from March 9 to April 19, and are relatively aligned with the actual AFA average, with the exception of April 19.

In the Amendment 80 sector, the Area 542 sideboard dates proposed under Suboption 1 are four to five weeks earlier than the average of the Amendment 80 sector's actual dates of first cod deliveries.⁸⁷ Under Suboption 2, the sideboard dates are also about four weeks earlier than the Amendment 80 average, with the exception of April 19.

While the proposed sideboard limit would apply to catcher vessel deliveries of any gear type, recall that the majority of the catcher vessel Pacific cod ITAC is allocated to trawl gear, and the majority of the catcher vessel harvest in the Aleutians is with trawl gear. Section 2.6.1 reported that, in practice, only trawl CVs have been delivering to the rationalized processing sectors in the past decade.

The trawl CV seasons are: January 20 – April 1 (A season); April 1 – June 10 (B season); and June 10 – November 1 (C season). The closure dates for the Federal A season for the BSAI Pacific cod trawl CV sector from 2004 – 2009 are shown below. If the trend continues toward an A season that lasts through early to mid-March, the later dates (March) resulting from the suboptions could effectively prohibit rationalized motherships/CPs from taking CV deliveries of A season trawl Pacific cod from Areas 541 and 542. In one case, Suboption 2c (for Area 542 only) results in a sideboard date of April 19, which would effectively prevent mothership deliveries until after the B season regulatory start date of April 1. For the most part, however, this action is limited to affecting the A season.

| Year | Closure date for A season BSAI trawl CV Pacific cod |
|------|---|
| 2009 | March 22 |
| 2008 | March 6 |
| 2007 | March 12 |
| 2006 | March 8 |
| 2005 | March 13 |
| 2004 | March 23 |

Source: NMFS Information bulletins, 2004 – 2009.

Recall that the sideboard dates are designed and intended to limit mothership deliveries to their historical start dates, with the exception of the exempted AFA CP vessel, which would not be subject to the sideboard. For both the AFA and Amendment 80 sectors, the majority of the sideboard dates provide an earlier start date than the start date of each of these sectors that has occurred on average.

For the crab sector, the Area 541/542 sideboard dates reflect either the exact delivery date for this sector during its earliest year over a series of years, or an average of its earliest start dates. Only under Suboption 2c and 2d are the proposed sideboard dates either in line with or slightly later than the actual dates this sector started. (The exception to this statement is 2008, recognizing that it is not a qualifying

⁸⁵Using the four years of Amendment 80 activity in Areas 541/542 (1999, 2004, 2007, 2008, and 2009), the average earliest date for this sector is March 7, recognizing that 2008 and 2009 are not qualifying years.

⁸⁶Using the three years of AFA activity in Area 542 (1996 – 1998), the average earliest date for this sector is March 15.

⁸⁷Using the three years of Amendment 80 activity in Area 542 (2004, 2007, 2008, and 2009), the average earliest date for this sector is April 4, recognizing that 2008 and 2009 are not qualifying years.

year, in which a mothership in the crab sector received cod deliveries as early as February 10.) All but one of the Area 542 sideboard dates (April 19 under Suboption 2c) are substantially later than the average earliest delivery date for the crab sector in Area 542.

2.10.2.1 Summary

In sum, the proposed action under Alternative 2, Option 2, would effectively work as a prohibition on CV Pacific cod deliveries to the three rationalized sectors until the selected date. The sideboard would effectively limit the amount that the three rationalized sectors could receive of Pacific cod harvested by catcher vessels in Areas 541 and 542 combined, or Area 542 only. Prior to the date, CV cod could be delivered to: processing vessels that are not identified as part of these rationalized sectors; the one exempted AFA CP; or shoreside plants. As the ultimate effect is similar to establishing a sideboard amount (in mt), refer to Section 2.10.1.1 for a summary of both direct and ancillary effects of the proposed action.

The direct effects of the options for establishing the sideboard date are provided in Table 27. The sideboard date is proposed to be based on either the earliest date or average earliest date that Pacific cod was delivered to the rationalized processing sectors over a series of years. The series of years are either a recent three or five-year period, or the three or five years prior to each rationalization program.

If rationalized floaters/motherships/catcher processors are not allowed to process AI cod until the sideboard date, it effectively guarantees a portion, and in some years likely all, of the A season trawl CV harvest to be delivered shoreside. These shoreside deliveries would likely primarily be to Adak, as Adak is the closest shoreside plant in the area that processes Pacific cod. Adak's primary fishery is Pacific cod, and in the past year Adak Fisheries substantially expanded its cod processing capabilities. Recall, however, that Adak Fisheries' financial situation has changed recently, and future operation of the plant has become uncertain. It has not been processing groundfish since mid-April 2009, and it changed ownership in early August 2009. In early September, Adak Fisheries officially filed for Chapter 11 bankruptcy. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and related assets to a new company, Adak Seafood, LLC; thus, its potential to operate in the near and long-term future is uncertain.

A few additional summary points follow:

- The sideboard dates resulting from Option 2 (Area 541 and 542 combined) are late February to early March, due primarily to mothership activity of crab vessels processing cod from the Aleutians during the past seven years.
- The sideboard dates resulting from Option 3 (Area 542 only) are later than Option 2. They are generally early to mid-March, also due primarily to mothership activity of crab vessels.
- Under recent annual closures, the majority of the sideboard dates would effectively operate as a prohibition on trawl catcher vessel deliveries of A season Pacific cod harvested in Areas 541 and 542 to processing vessels from the three rationalized sectors acting as motherships (with the exception of the one exempt AFA CP).
- In one case, under a sideboard date that only applies to Area 542, one suboption results in a sideboard date that would prevent catcher vessel deliveries to the three rationalized sectors acting as motherships (with the exception of the one exempt AFA CP) until after the trawl B season start date (April 1).
- Depending upon the Pacific cod market and operations in Adak, this could result in a large share of the trawl catcher vessel A season cod harvested in Areas 541/542 being delivered shoreside to

Adak, and/or to the one exempt AFA trawl catcher processor that traditionally operates in the Aleutians. There would be likely be limited alternative processing opportunities for catcher vessels harvesting cod in Areas 541/542. For those catcher vessels that prefer to deliver shoreside, or cannot deliver unsorted cod-ends at-sea, they could either deliver to Adak or to a shoreside processor that is much further from the fishing grounds, such as Dutch Harbor or Akutan.

- Some trawl catcher vessels may prefer to shift operations to Area 543, or operate solely in the Bering Sea. Shifting effort to the Bering Sea is possible until and unless the BSAI TAC is split between the BS and the AI areas.
- The sideboard dates under Suboption 1 (a – d), Suboption 2a, and Suboption 2b do not reflect the start dates for the AFA and Amendment 80 sectors’ mothership activity. Only Suboption 2c and Suboption 2d reflect the start dates for all three sectors’ mothership activity.

2.11 Implementation issues

NMFS would be able to track catch delivered to vessels subject to sideboard restrictions using existing reporting methods. Currently, motherships (which includes catcher/processors that also receive catch from catcher vessels) or stationary floating processors receiving catch from another vessel are required to report that catch using eLandings (Interagency Electronic Reporting System). These reports require that vessels delivering catch report the State of Alaska statistical areas where the catch occurred. NMFS can determine the management area where catch occurred from these statistical area reports, and determine if the landing delivered to a mothership, catcher processor, or stationary floating processor meets the definition of a directed Pacific cod landing based on a review of the total catch data for that delivery. NMFS would sum all directed Pacific cod landings delivered to all vessels subject to the sideboard limit and close the sideboard fishery as necessary when the sideboard limit has been reached. Based on a preliminary review of the Council’s action, it does not appear that additional monitoring and enforcement provisions would be necessary to implement the sideboard limits. To aid both industry and NMFS, during the rulemaking process NMFS would establish a list of vessels that would be subject to the Council’s proposed sideboard limits. This list of vessels would be established in regulation to provide clear guidance to the industry and enforcement personnel.

Although portions of the Council’s motion describe the sideboard limit as a “processing sideboard,” other portions of the motion make it clear that NMFS would be limiting the amount of Pacific cod deliveries. NMFS would need to implement the Council’s motion by limiting deliveries, not actual processing activity. Limits on processing could only be established by monitoring offloaded product and recalculating the round weight equivalent from those product forms. This would result in lengthy delays in establishing a sideboard limit closure and contravene the intent of the Council.

2.12 Net benefits to the Nation

Overall, this action is likely to have a limited effect on net benefits to the Nation. In large part, the action affects distributional equities among various sectors eligible to process Pacific cod harvested by catcher vessels in Areas 541 and/or 542. To the extent that the sideboard alternatives limit processing competition for landings, those alternatives are likely to slightly reduce net benefits to the nation. This change in net benefits is likely to vary over time and will depend on the degree to which processors that are not subject to the sideboard elect to compete for landings.

In sum, the main economic benefit to be obtained from the proposed action is the prevention of expansion of Area 541/542 Pacific cod processing capacity by the three rationalized processing sectors at issue (AFA, crab, and BSAI Amendment 80), which has primarily distributional effects on the universe of existing participants. Any effects on the net benefits to the Nation are considered minor.

3.0 ENVIRONMENTAL ASSESSMENT

The purpose of this section is to analyze the environmental impacts of the proposed Federal action to establish a BSAI Pacific cod processing sideboard on rationalized processing vessels. In effect, the action would limit the amount of catcher vessel deliveries of Pacific cod harvested in Area 541 or 542 to catcher processors, floating processors or motherships that operate under the AFA, crab rationalization, or BSAI Amendment 80 programs. This amount would be represented as a percentage of the BSAI Pacific cod catcher vessel ITAC, and translated into metric tons on an annual basis during the annual harvest specifications process.

A separate option would establish a processing sideboard for Pacific cod harvested by catcher vessels in Area 542 only. In addition, there is a proposed option to establish a sideboard date, before which the rationalized processing vessels could not take deliveries of Pacific cod from catcher vessels that harvested cod in Area 541 or 542 (or Area 542 only). Under its preferred alternative, the Council could choose: a sideboard amount (expressed as a percentage of the BSAI Pacific cod catcher vessel ITAC); a sideboard date; a sideboard amount combined with a sideboard date; or no action. One AFA CP has been determined to be exempt from the proposed action in entirety, based on long-term Pacific cod processing in this capacity in Areas 541 and 542.

An environmental assessment (EA) is intended, in a concise manner, to provide sufficient evidence of whether or not the environmental impacts of the action is significant (40 CFR 1508.9). Three of the four required components of an environmental assessment are included below. These include brief discussions of: the purpose and need for the proposal (Section 3.1), the alternatives under consideration (Section 3.2), and the potential environmental impacts of the proposed action and alternatives (Section 3.3). The fourth requirement, a list of agencies and persons consulted, is provided in Section 8.0.

3.1 Purpose and need

The Council has identified the following problem statement and additional statements regarding the affected area and sectors for the proposed action. Further background information and detail on the intent of the proposed action is provided in Section 2.1.

Problem statement:

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

Affected resource and areas:

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

Affected vessels:

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

3.2 Description of alternatives

This analysis evaluates two primary alternatives, with several overlapping components, options, and suboptions. **Alternative 1** is the no action alternative, which reflects the status quo (i.e., no processing sideboards). **Alternative 2** would establish a processing sideboard on catcher vessel deliveries of Pacific cod harvested in Area 541 or 542, which would essentially limit the amount of Pacific cod harvested in these areas that could be delivered to processing vessels eligible to participate in the three rationalized sectors (AFA, BSAI crab rationalization, and BSAI Am. 80). The combination of components essentially creates a multitude of various potential options for action by the Council.

There are two primary components under Alternative 2. **Component 1** addresses the overall approach taken to establish either: Option 1) a sideboard limit (as a percentage of the BSAI CV ITAC and converted annually to mt) and/or Option 2: a sideboard date, prior to which rationalized processing vessels would be restricted from taking catcher vessel deliveries of Pacific cod harvested in Areas 541/542. Option 1 and Option 2 are not mutually exclusive; the Council could choose to implement both a sideboard limit and a sideboard date, or choose one or the other. Two suboptions under each option provide various approaches to establishing the limit and/or date. Option 3 under Component 1 provides an additional option to restrict the entire action to catcher vessel deliveries of Pacific cod harvested only in Area 542.

Component 2 defines the qualifying years by which the sideboard limit and/or sideboard date would be established. There are two general approaches to the qualifying years under Component 2. Option 1 would apply recent history, and there are two suboptions that provide a different series of years: Suboption 1 (2005 – 2007) and Suboption 2 (2003 – 2007). Option 2 would use the years prior to implementation of the three respective rationalization programs: Suboption 1 (3-year period prior to each program’s implementation) and Suboption 2 (5-year period prior to each program’s implementation).

Note that prior to February 2009, there also existed Component 3, which provided the option to establish either a single sideboard that would apply to all three rationalized sectors combined, or program-specific sideboards, which would be established and managed separately for each of the three rationalized sectors. At the February 2009 Council meeting, the Council approved a motion to eliminate the option to establish separate sideboards that would apply to each individual rationalized sector, based primarily on the fact that confidentiality rules prevent the analyst from providing the results of any of the options for separate, program-specific sideboard amounts. This is due to the limited number of processing vessels in each sector that have operated as motherships in this fishery during the proposed qualifying years.⁸⁸ Thus, the only remaining option would establish a combined sideboard amount and/or sideboard date that would apply to all three rationalized sectors. This approach has been incorporated into Component 1.

⁸⁸See the February 2009 newsletter: <http://www.fakr.noaa.gov/npfmc/newsletters/NEWS209.pdf> or the February 2009 discussion paper: http://www.fakr.noaa.gov/npfmc/current_issues/pcod/EAIpcodSB209.pdf.

The following provides the complete suite of alternatives, components, options, and suboptions considered in this amendment package, as revised by the Council at its February 2009 meeting.

Alternative 1. No action

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

Component 1. Establishing processing sideboard

Option 1. Sideboard limit

All affected processing vessels that accept deliveries of Pacific cod harvested in Areas 541 or 542 would be combined under a single sideboard. Limit the amount of Pacific cod harvested in Areas 541 or 542 that may be delivered to the affected Federally permitted processing vessels by other vessels to:

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

Option 2. Sideboard date

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

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

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

Component 2. Qualifying years

Option 1. Recent history

- Suboption 1. 2005 – 2007 (3-year period prior to 2008)
- Suboption 2. 2003 – 2007 (5-year period prior to 2008)

Option 2. Years prior to implementation of the respective rationalization program

- Suboption 1. 3-year period prior to program implementation
- Suboption 2. 5-year period prior to program implementation

3.3 Probable environmental impacts

This section estimates the effect of the alternatives on the biological, physical, and human environment. The action alternative and options establish a Pacific cod processing sideboard on processing vessels eligible under the AFA, crab rationalization, and BSAI Amendment 80 sectors. Processing vessels subject to this sideboard would be limited in the amount of Pacific cod harvested in Areas 541 and 542 they could receive from catcher vessels (i.e., limit their activity as motherships). The options also propose a sideboard date, before which processing vessels subject to this action could not receive any catcher vessel deliveries of Pacific cod harvested in Areas 541 and 542.

The physical and biological effects of the alternatives on the environment and animal species are discussed together in Section 3.3.1. Economic and socioeconomic effects of the alternatives are primarily analyzed in the RIR in Section 2.0, but are summarized briefly in Section 3.3.2. Cumulative effects are addressed in Section 3.3.3.

3.3.1 Physical and Biological Impacts

Alternative 1

Alternative 1 represents the status quo, with no changes to establish Pacific cod processing sideboards on the rationalized processing sectors receiving catcher vessel deliveries of cod harvested in Area 541 and 542. Status quo Pacific cod fishing is periodically evaluated to support decision-making on annual harvest specifications for the BSAI and GOA groundfish fisheries. The groundfish harvest specifications Environmental Impact Statement (EIS; NMFS 2007) evaluates all physical and biological resources affected by the groundfish fisheries, including Pacific cod, and describes the impact of the fisheries. The analysis of Alternative 2 in NMFS (2007), which describes status quo fishing, is incorporated by reference. The EIS finds that under status quo groundfish fishery management there is a low probability of overfishing target species, or generating adverse impacts to fish species generally (target, non-specified, forage, or prohibited species). Direct and indirect effects of the groundfish fisheries, as currently managed, on marine mammals and seabirds are not likely to constrain the foraging success of these species or to cause population declines. Effects on essential fish habitat are minimal and temporary. Effects on ecosystem relationships are also analyzed as adverse but not significant.

Alternative 2

The net effect of Alternative 2, Components 1 and 2, is to limit mothership processing activity for Pacific cod harvested by catcher vessels in Area 541 and 542 (or 542 only) to status quo levels. The options propose processing thresholds that would limit the amount of mothership activity by the three rationalized sectors at issue to historical levels (i.e., base the thresholds on qualifying years). Qualifying years are defined as either recent history (2005 – 2007 or 2003 – 2007) or the years prior to implementation of the respective rationalization program (3-year period or 5-year period). The proposed criteria base the sideboards on either the greatest amount or the average annual amount delivered during the qualifying years. An option is also under consideration to establish a sideboard date, before which the three rationalized processing sectors could not operate as motherships for Pacific cod harvested by catcher vessels in Area 541 or 542 (or Area 542 only).

The proposed sideboard would apply to all processing vessels eligible under the AFA, crab rationalization, and BSAI Amendment 80 programs, as described in Section 2.4, with the exception of one AFA CP that is exempt from this action due to its long history as a mothership in this fishery in the Aleutian Islands. The exemption is stated in the purpose and need statement (see Section 3.1) and the effects are described in Section 2.4.

The proposed sideboard would limit deliveries from all catcher vessels harvesting Pacific cod in Area 541 or 542, regardless of gear type. However, for almost the past decade, only catcher vessels using trawl gear have delivered Pacific cod from these areas to rationalized processing vessels.

The proposed sideboards are described in detail in Section 2.0 and summarized here. Under a sideboard that applies to Area 541 and 542 combined (Component 1, Option 1), the sideboards range from 1.6% to 4.0% of the BSAI catcher vessel Pacific cod ITAC. Note also that basing the sideboard on the average of the three most recent qualifying years (2005 – 2007) results in the lowest sideboard percentage; while basing the sideboard on the greatest amount delivered in the 3 or 5 years prior to implementation of each program results in the highest sideboard percentage. Note also that the sideboard resulting from one of the proposed options (i.e., Option 1, Suboption 1b, the greatest amount delivered within 2003 – 2007) cannot be provided due to confidentiality rules. Regardless, the resulting (non-confidential) sideboards do not differ significantly under any of the suboptions under Option 1. While the proposed sideboards would likely have been constraining on the rationalized processing sectors in 2008, they likely would not have been in 2009, due to reduced participation.

Under a sideboard that applies only to Area 542 (Component 1, Option 3), the range of the proposed sideboards is from 0.1% to 0.8% of the BSAI catcher vessel Pacific cod ITAC, thus, there is not a substantial difference between any of the proposed suboptions. While confidentiality rules prevent stating whether the proposed sideboards for Area 542 would have been constraining on the rationalized processing sectors in 2008 or 2009, it is not intuitive that they would be, due to the overall low mothership activity in Area 542. Based on 2007 mothership activity, the proposed sideboards for Area 542 would not have been constraining.

The sideboard dates resulting from Area 541 and 542 combined are in late February or early March (refer to Table 27), while the sideboard dates resulting from Area 542 only are in early March to mid-March, with the exception of one April date under Suboption 2c. The rationalized crab sector's historical mothership activity is the primary driver for the resulting sideboard dates, due to the limited number of vessels and years in which the Amendment 80 sector has had mothership activity in the Aleutian Islands cod fishery, and the fact that the only AFA vessel with mothership activity in the AI since 2000 is exempt from the proposed action (and thus its activity is not included in the calculations). In effect, the proposed sideboard dates are earlier than the (non-exempt) AFA and Amendment 80 sectors have operated in the past, and thus are not expected to impact those sectors compared to the status quo.

In sum, as stated previously, the net effect of Alternative 2, Option 1 (sideboard amount), is to limit mothership activity for Pacific cod harvested by catcher vessels in Area 541 and 542 to status quo levels. The effect of Alternative 2, Option 2 (sideboard date) is to annually prohibit mothership activity for Pacific cod harvested in Areas 541 and 542 until a specific date. These dates generally mirror the status quo for the rationalized crab sector, and are not constraining on the AFA and Amendment 80 sectors, compared to the status quo, with the possible exception of 2008 for the crab sector and 2009 for the Amendment 80 sector.

The effect of Alternative 2, Option 3, which limits the action to Area 542, is also likely to be negligible compared to the status quo. Because the vast majority of the Pacific cod harvested by catcher vessels in these two areas is from Area 541, a sideboard or sideboard date that applies only to Area 542 is not likely to substantially affect the status quo. It would be relatively easy for the rationalized mothership/CP sector and associated catcher vessels to circumvent the intent of a processing sideboard or sideboard date that only applies to Area 542. While the intent is to limit the amount of offshore deliveries, or preclude offshore deliveries prior to a certain date, these vessels could choose to harvest cod only in Area 541 or other areas of the BSAI, where the majority of the cod harvest has been taken to date.

Concerns have been expressed regarding the potential for stranding fish in the Aleutians, in the event that 'other' floaters are not available, the Adak plant is not operating in a given year, and/or the plant in Atka is not processing Pacific cod. Because the fishery is currently managed under a combined BSAI Pacific cod TAC, 'stranding fish' is not a likely scenario, unless the TAC cannot be fully harvested in the Bering Sea and Area 543. However, restricting processing opportunities in Areas 541 and 542 could result in some catcher vessels shifting their operations to either the Bering Sea or Area 543 (western Aleutian Islands). This possibility exists unless and until the BSAI Pacific cod TAC is split into two separate areas TACs for the BS and the AI, an action which the Council will discuss in April 2010, and may be severely influenced by the results of the ongoing Steller sea lion Biological Opinion, also scheduled for review in April 2010. Clearly, it is not possible to know the extent to which individual operations would shift to other areas due to the proposed action, but the possibility exists.

Effects on the target species (Pacific cod) should not be significant. The TAC is determined annually based on the biomass of the target species, and effective monitoring and enforcement are in place to ensure that the overall BSAI TAC is not exceeded. Therefore, regardless of the potential for a shift in effort to the BS or Area 543, the total allowable catch of the target species will not increase under the

proposed action. Note, however, that in October 2008, the Council's SSC reviewed information supporting evidence for a biological distinction between Pacific cod of the Bering Sea and the Aleutian Islands. The SSC felt that there was sufficient justification to recommend specifying separate ABCs in the BS and AI for this species, as a precautionary approach. The Council has initiated a process to implement this recommendation, which is scheduled to coincide with the review of the ongoing Steller sea lion Biological Opinion in April 2010. In the interim, the SSC has noted that the status quo approach, which considers BSAI Pacific cod as a single stock, does not represent a conservation concern for Pacific cod, and it recognizes the management implications resulting from an area split. The SSC did not recommend separate BS and AI area ABCs and OFLs during the harvest specifications process for 2009 and 2010. In sum, under Alternative 2, the status quo level of fishing activity is expected to continue. As a result, there are no significant adverse impacts expected under Alternative 2.

One of the potential effects of harvesting a higher percentage of the BSAI Pacific cod TAC in the Bering Sea, is that the Bering Sea cod fishery typically has a higher halibut PSC mortality rate than the Aleutian Islands, for all sectors. For example, the 1995 – 2004 average halibut mortality rate (as a percentage of groundfish mortality in the Pacific cod fishery) for the trawl catcher vessel sector is estimated as about 7 times higher in the Bering Sea (1.82) than in the Aleutians (0.26).⁸⁹ Thus, increased effort in the Bering Sea has the potential to more quickly reach halibut PSC limits and cause fishery closures, as the Pacific cod fishery is managed on a BSAI wide basis. However, while this may have a potential effect on the fishery, it does not have a biological impact, as effective monitoring and enforcement would continue to be in place to ensure that the halibut prohibited species allowances would not be exceeded.

Changes in interactions with other fish species, marine mammals, seabirds, habitat, and ecosystem relations are tied to changes in target fishery effort. As described above, overall fishing effort in the BSAI Pacific cod fishery is not expected to change due to the proposed action; the issue is one of processing distribution between offshore and onshore sectors in Area 541 and 542. Limits regulate the catch of forage and prohibited species in Federal waters, so any increase in their catch will not achieve a significantly adverse threshold.

Note also that vessels would still have to comply with existing Federal regulations protecting Steller sea lion rookeries and haulouts.⁹⁰ Current Steller sea lion protection measures close much of the AI region up to 10 or 20 nautical miles offshore from rookeries and haulouts for cod trawling, with less restrictive no-fishing zones for hook-and-line and pot gear. A recent survey of adult and juvenile Steller sea lions showed a 20% decline in the non-pup Steller sea lion counts in the eastern portion of the Aleutian Island Steller sea lion census area between 2004 and 2007.⁹¹ Note that while the proposed action is intended to establish processing limits that are based on historical mothership activity in the area and thus not change the fishery significantly from the status quo, results of the ongoing Steller sea lion Biological Opinion on the current Pacific cod regime could dictate changes to the management of the Pacific cod fishery in the near future. In effect, this action could modify the existing 'status quo.' This is discussed in more detail in the cumulative effects section below. Regardless, any action to modify the BSAI Pacific cod fishery would require at least an informal consultation with NOAA Fisheries, Protected Resources Division, given that Alternative 2 could be considered a change in the action upon which the last ESA Section 7 consultation was based.

The Council and NOAA Fisheries have also recently closed much of the Aleutian Islands to fishing to mitigate any potential adverse effects to essential fish habitat,⁹² and vessels would continue to be subject

⁸⁹NPFMC discussion paper: Apportionment of BSAI Pacific cod sector allocations between BS and AI areas, December 2009.

⁹⁰See <http://www.fakr.noaa.gov/sustainablefisheries/2003hrvstspecssl.htm> for regulations and maps.

⁹¹Memo from Fritz, L., et al, NOAA, to The Record, *Survey of Adult and Juvenile Steller Sea Lions, June–July 2007*.

⁹²See <http://www.fakr.noaa.gov/habitat/efh.htm> for further details.

to those closure areas. Given that an overall increase in BSAI Pacific cod fishing activity is not expected under Alternative 2, and there are measures currently in place to protect the physical and biological environment, the potential effect of the component on an ecosystem scale is very limited. As a result, no significant adverse impacts to marine mammals, seabirds, habitat, or ecosystem relations are anticipated.

3.3.2 Economic and socioeconomic impacts

The economic and socioeconomic impacts of the proposed amendment are addressed in the Regulatory Impact Review, Section 2.0 of this report. The various options under Alternative 2 have very similar general effects, with the sideboard amounts ranging from 1.6% to 4.0% of the BSAI Pacific cod catcher vessel ITAC, if the sideboard applies to Pacific cod harvested in both Area 541 and 542 combined.⁹³ The sideboard amounts range from 0.1% to 0.8% of the BSAI Pacific cod catcher vessel ITAC, if the sideboard applies to Pacific cod harvested only in Area 542.

Under the proposed options for a sideboard date, the dates range from mid-February to mid-March, if the sideboard date applies to Pacific cod harvested in Areas 541 and 542 combined. If the sideboard date is limited to Pacific cod harvested in Area 542, the dates range from early March to mid-April.

3.3.3 Cumulative impacts

Analysis of the potential cumulative effects of a proposed action and its alternatives is a requirement of NEPA. Cumulative effects are those combined effects on the quality of the human environment that result from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions, regardless of what Federal or non-Federal agency or person undertakes such other actions (40 CFR 1508.7, 1508.25(a), and 1508.25(c)). Cumulative impacts can result from individually minor, but collectively significant, actions taking place over a period of time. The concept behind cumulative effects analysis is to capture the total effects of many actions over time that would be missed by only evaluating each action individually. At the same time, the CEQ guidelines recognize that it is not practical to analyze the cumulative effects of an action on the universe but to focus on those effects that are truly meaningful.

The 2004 Final Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (Groundfish PSEIS; NOAA 2004) assesses the potential direct and indirect effects of groundfish FMP policy alternatives in combination with other factors that affect physical, biological and socioeconomic resource components of the BSAI (and GOA) environment. The 2007 groundfish harvest specifications EIS provides additional discussion of the impacts of the Pacific cod target fishery (NMFS 2007). To the extent practicable, this analysis incorporates by reference the cumulative effects analyses of the Groundfish PSEIS and the harvest specifications EIS, including the persistent effects of past actions and the effects of reasonable foreseeable future actions.

Beyond the cumulative impacts discussed above and documented in the referenced analyses, no additional past, present, or reasonably foreseeable cumulative negative impacts on the biological and physical environment (including fish stocks, essential fish habitat, ESA-listed species, marine mammals, seabirds, or marine ecosystems), fishing safety, or consumers have been identified that would accrue from the proposed action.

Regarding cumulative impacts on fishing communities, the primary impetus for this action is to limit to historical levels the amount of catcher vessel Pacific cod harvested in Areas 541/542 that can be delivered to and processed by motherships/floaters/CPs in three specific BSAI rationalization programs, in order to protect shoreside processing opportunities in the Aleutian Islands for BSAI Pacific cod. Thus, the action

⁹³Note that this range excludes the resulting sideboard from Option 1, Suboption 1b, which is confidential.

was initiated due to the potential cumulative effects of the implementation of three BSAI rationalization programs (AFA, crab, and BSAI Am. 80) on AI shoreside processors and the communities in which they are located. The shoreside processor that has received the majority of Pacific cod harvested by catcher vessels in Areas 541 and 542 is Adak Fisheries, located in Adak. **Note, however, that Adak Fisheries' financial situation has changed recently, and future operation of the plant has become uncertain.** The situation remains very fluid, and information reported here may not be up to date by the time the Council reviews this document. As discussed in Section 2.6.5, the significant drop in the Pacific cod markets also affected Adak Fisheries operations. They realized a substantial reduction in the price per ton paid for frozen head and gut cod product compared to 2008, and product sales have been well below pre-season expectations. Adak Fisheries has not been able to pay for all fish delivered in the State water A season and Federal B season, and has not fully paid its power bill. Essentially, the plant has not been in processing mode since the Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April). In early August 2009, a new company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy. The company has several unpaid creditors, totaling several million dollars. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and related assets to a new company, Adak Seafood, LLC, and it is uncertain whether a shorebased plant will be operational in Adak in the near or long-term future.

While this action would not limit deliveries to shoreside processors in any particular community (e.g., Akutan, Dutch Harbor), the only other shoreside processor located in Area 541 or 542 is in Atka. The plant in Atka generally processes halibut and sablefish. This processor does not currently have the capacity to process Pacific cod, but representatives have noted that the plant is being reconstructed and remodeled, with the intent to process Pacific cod in the future, should it become economically viable. The three-year project is expected to be completed in 2010.⁹⁴

Representatives of Atka, from APICDA and the city of Atka, have testified to the Council that they oppose an action that would essentially require Pacific cod to be processed onshore. This is primarily due to the current lack of cod processing capability at the Atka plant, the uncertainty surrounding whether processing cod at the plant will be economically viable in the future, and the relationship established with a floating processor. The floater pays fish taxes to Atka, and provides a market for local cod, crab, and other species. However, even with the future potential for cod processing at the shoreside plant in Atka, representatives of Atka have not supported the proposed action to-date. Thus, there may be some short-term impacts to the community of Atka, in terms of lost tax revenue and other revenue derived from having a floating processor operate in the community, as well as more limited processing opportunities for local fishermen. Whether the proposed action would benefit or potentially harm Atka depends on several factors, including completion of the plant project, whether it is economical for the shoreside plant to process cod, whether a floating processor in Atka would continue to come to Atka to process crab, other species, and/or cod, and whether a floating processor would be constrained by the sideboards in the short and/or long-term.

The rationalized processing vessels directly affected by the proposed action are all from the Seattle area, with the exception of one vessel from King Cove. The distribution of mothership deliveries of Pacific cod harvested in Areas 541/542 between these two cities cannot be provided, due to data confidentiality. Table 28 provides the amount of CP and CV landings to all processors (CPs, floating, and shoreside) that have also received deliveries of CV Pacific cod harvested in Area 541 or 542 during 2002 – 2008. Because there are only 3 CPs that have their own CP landings and have also acted as motherships in the AI Pacific cod fishery, this table combines all of the CP and CV landings to *all* processors that received AI Pacific cod deliveries. This table is intended to characterize the relative level of processor sector participation in Area 541/542 Pacific cod, pollock, other Pacific cod, shellfish, and other species

⁹⁴Personal communication, Joe Kyle, APICDA, May 19, 2009.

categories, by processors that have received deliveries of Area 541/542 Pacific cod in the recent past. Note that if a processor received Area 541 or 542 Pacific cod in 2002, all of its 2002 landings (whether harvested as a CP or received from CVs) are included in the table. If that same vessel did not have Area 541/542 CV deliveries in 2003, none of its 2003 CP harvest or CV deliveries are included in the table. Note that many of these data remain confidential.

Table 28 Retained CP and CV landings from processors that also received deliveries of CV Pacific cod in Area 541 or 542, 2002 – 2008

| Fishery | Sector | # unique processors | Metric tons |
|----------------------|------------------|---------------------|-------------|
| Al Pacific Cod | AFA | 1 | conf |
| | Am80 | 2 | conf |
| | Crab | 3 | 17,328 |
| | Other Mothership | 1 | conf |
| | Shoreside | 11 | 55,458 |
| Other Non-groundfish | AFA | 1 | conf |
| | Crab | 3 | 71,910 |
| | Other Mothership | 1 | conf |
| | Shoreside | 9 | 55,874 |
| Other Groundfish | AFA | 1 | conf |
| | Am80 | 2 | conf |
| | Crab | 2 | conf |
| | Shoreside | 9 | 29,167 |
| Other Pacific Cod | AFA | 1 | conf |
| | Am80 | 2 | conf |
| | Crab | 3 | 57,369 |
| | Other Mothership | 1 | conf |
| | Shoreside | 10 | 169,101 |
| Pollock | AFA | 1 | conf |
| | Am80 | 2 | conf |
| | Crab | 2 | conf |
| | Shoreside | 9 | 3,043,076 |
| Shellfish | Crab | 3 | 6,963 |
| | Shoreside | 9 | 53,903 |

Source: Catch Accounting/Blend data, 2002 – 2008. Includes all retained catch by processors that received CV deliveries of Pacific cod from Areas 541 or 542 during a given year from 2002-2008, including any harvest as a CP.

Al Pacific cod = retained catch of Pacific cod from Areas 541/542 only. CDQ, State waters, BS, and Area 543 Pacific cod harvest is included in the "other Pacific cod" category.

Examples of 'Other non-groundfish' include salmon, herring, halibut, squid, etc.

While not directly regulated by the proposed action, catcher vessels that have delivered Pacific cod harvested in Area 541/542 to the rationalized processing sectors could also potentially be affected, as discussed in the RIR. Generally, catcher vessels that have made Area 541 or 542 Pacific cod deliveries to the rationalized processing vessels have been owned by residents of the Seattle area (Table 29). During 1994 – 2009, at least 51 unique vessels delivered to one or more of the rationalized processing sectors, with 45 of those vessels owned by Washington residents, 5 owned by Alaska residents, and one owned by another state.

Table 29 Number of unique CVs delivering Pacific cod harvested in Areas 541/542, 1994 – 2009, by vessel owner residency

| Processing Sector | # unique CVs delivering to each sector (1994 – 2009), by vessel owner residency | | | |
|--------------------|---|----|-------|---------------------------------|
| | WA | AK | Other | # Unknown landings ¹ |
| Shoreside | 123 | 78 | 20 | 1 |
| 'Other mothership' | 4 | 1 | 0 | 10 |
| Crab | 37 | 5 | 1 | 4 |
| AFA | 9 | 1 | 0 | 10 |
| Am. 80 | 4 | 0 | 0 | 1 |

Source: NMFS Blend data for mothership deliveries 1994 – 2000 and 2009 data; ADF&G fishtickets for mothership deliveries 2001 – 2008. Retained CV landings only. CDQ and State waters catch excluded.

¹This column denotes landings for which the residence of the vessel owner is unknown. It does not necessarily represent a unique number of vessels, as multiple landings could have been made by the same vessel.

In addition, Table 30 provides the ex-vessel values of landed catch from catcher vessels harvesting Pacific cod in Area 541 or 542 during 2002 – 2008. This table is intended to characterize the level of participation or dependency on Area 541/542 Pacific cod and other species categories, by catcher vessels that have harvested Area 541/542 Pacific cod in the recent past. This table includes all retained catch by catcher vessels that have harvested Pacific cod from Areas 541 or 542 during a given year. For example, if a vessel had Area 541 or 542 Pacific cod catch in 2002, all of its 2002 catch is shown in the 2002 totals. If that same vessel did not have Area 541/542 catch in 2003, none of its catch is included in the 2003 totals.

Table 30 shows that Area 541 or 542 Pacific cod have comprised 11% - 22% of the ex-vessel revenues attributed to these catcher vessels. Pacific cod from other areas has made up a smaller share of their ex-vessel revenues through 2005, but have represented a larger share starting in 2006, due to the establishment of the AI Pacific cod State waters fishery. Starting in 2006, ex-vessel revenues from Pacific cod harvested in other areas surpassed or equaled the ex-vessel revenue share attributed to Pacific cod harvested in Area 541/542 (Federal fishery). It also shows that the majority of the ex-vessel revenues of these vessels came from pollock harvests, with the exception of 2006 and 2008.

Table 30 Ex-vessel values of landed catch from catcher vessels harvesting Pacific cod in Area 541 or 542, 2002 – 2008

| Year | Fishery | Vessel count | Metric tons | Ex-vessel value | % of total ex-vessel value |
|-------------------|-------------------|----------------|-------------|-----------------|----------------------------|
| 2002 | AI Pacific cod | 39 | 15,140 | 6,882,456 | 13.0% |
| | Other Pacific cod | 35 | 4,029 | 1,814,077 | 3.4% |
| | Other | 34 | 4,123 | 7,936,132 | 15.0% |
| | Pollock | 27 | 141,136 | 32,802,127 | 61.9% |
| | Shellfish | 18 | 491 | 3,559,514 | 6.7% |
| | TOTAL | | | 52,994,306 | 100.0% |
| 2003 | AI Pacific cod | 41 | 17,031 | 12,914,355 | 21.5% |
| | Other Pacific cod | 38 | 2,665 | 1,496,039 | 2.5% |
| | Other | 41 | 5,003 | 11,122,350 | 18.5% |
| | Pollock | 35 | 142,527 | 32,451,678 | 54.1% |
| | Shellfish | 12 | 194 | 2,007,025 | 3.3% |
| | TOTAL | | | 59,991,447 | 100.0% |
| 2004 | AI Pacific cod | 30 | 13,657 | 6,460,774 | 17.7% |
| | Other Pacific cod | 24 | 3,056 | 1,463,332 | 4.0% |
| | Other | 29 | 3,060 | 6,998,004 | 19.2% |
| | Pollock | 21 | 86,485 | 19,091,211 | 52.3% |
| | Shellfish | 10 | 371 | 2,494,518 | 6.8% |
| | TOTAL | | | 36,507,839 | 100.0% |
| 2005 | AI Pacific cod | 26 | 7,939 | 4,221,799 | 12.8% |
| | Other Pacific cod | 24 | 4,787 | 2,627,516 | 8.0% |
| | Other | 24 | 2,971 | 6,623,946 | 20.2% |
| | Pollock | 18 | 79,052 | 19,315,903 | 58.8% |
| | Shellfish | 6 | 18 | 70,187 | 0.2% |
| | TOTAL | | | 32,859,350 | 100.0% |
| 2006 | AI Pacific cod | 32 | 6,818 | 5,286,885 | 10.9% |
| | Other Pacific cod | 29 | 7,724 | 6,142,724 | 12.7% |
| | Other | 26 | 3,528 | 17,364,749 | 35.9% |
| | Pollock | 16 | 70,263 | 19,178,637 | 39.7% |
| | Shellfish | 4 | 93 | 375,267 | 0.8% |
| | TOTAL | | | 48,348,262 | 100.0% |
| 2007 | AI Pacific cod | 47 | 11,429 | 11,130,837 | 14.7% |
| | Other Pacific cod | 47 | 12,393 | 11,791,120 | 15.5% |
| | Other | 43 | 12,901 | 13,565,950 | 17.9% |
| | Pollock | 38 | 140,837 | 39,344,897 | 51.9% |
| | TOTAL** | | | 75,832,804 | 100.0% |
| | 2008 | AI Pacific cod | 57 | 11,224 | 13,734,374 |
| Other Pacific cod | | 54 | 12,007 | 13,759,501 | 18.4% |
| Other | | 51 | 14,545 | 22,759,562 | 30.5% |
| Pollock | | 35 | 76,535 | 21,210,753 | 28.4% |
| Shellfish | | 5 | 520 | 3,186,737 | 4.3% |
| TOTAL | | | | 74,650,928 | 100.0% |

Source: ADF&G fishtickets, 2002 – 2008. Includes all retained catch by vessels with CV catch of Pacific cod from Areas 541 or 542 during a given year from 2002-2008.

AI Pacific cod = retained catch of Pacific cod from Areas 541/542 only. CDQ, State waters, BS, and Area 543 Pacific cod harvest is included in the "other Pacific cod" category.

**Excludes ex-vessel revenues from one catcher vessel landing shellfish, due to confidentiality rules.

In sum, cumulatively significant negative impacts on these resources are not anticipated as a result of the proposed action. However, while there are no expected significant cumulative adverse impacts on the biological and physical environment, fishing communities, fishing safety, or consumers, there may be economic effects on the rationalized processing sectors and Pacific cod catcher vessels that operate in Area 541 and 542 as a result of the proposed action in combination with other actions. As discussed below, participants in the BSAI Pacific cod fishery have experienced several regulatory changes in the past several years that have affected their economic performance. Moreover, a number of reasonably foreseeable future actions are expected to affect the socioeconomic condition of these sectors.

3.3.3.1 Past and present actions

The cumulative impacts from past management actions are one of the driving forces for the initiation of the proposed amendment. Increasingly, other fisheries in the region have been rationalized, or managed under a cooperative structure, with exclusive fishing and/or processing privileges being the basis for most actions. The result is that these programs provide benefits to processing vessels and afford opportunities for consolidation, thus freeing some processing capacity to target the BSAI Pacific cod fishery. This fishery is one of the primary remaining fisheries in the region to be managed under a limited access regime. While there are limits on the amount of Pacific cod harvested by the rationalized sectors, there are no limits on the amount of Pacific cod harvested by catcher vessels that can be delivered to motherships or floating processors and catcher processors acting as motherships. In effect, implementation of the following three rationalization programs (listed below), have contributed to the existing conditions:

- American Fisheries Act in 1999, which allocates the BSAI pollock fishery among specified trawl vessels;
- BSAI crab rationalization program in 2005;
- BSAI Amendment 80 in 2008, which allocates several BSAI non-pollock trawl groundfish species among trawl fishery sectors and facilitates the formation of harvesting cooperatives in the non-AFA trawl CP sector.

Much of the concern that initiated the proposed action stemmed from the 2008 Pacific cod A season, in which the share of Pacific cod harvested in Area 541 and 542 and delivered to motherships increased substantially compared to prior years. Some of this increase was attributed to two Amendment 80 vessels, which operated in the Aleutians and received catcher vessel cod deliveries, at least in part from company-affiliated catcher vessels. Amendment 80 also created separate allocations for what is termed the ‘trawl limited access sector’. The BSAI trawl limited access sector is comprised of all other BSAI trawl fishery participants not in the Amendment 80 sector, including AFA catcher processors, AFA catcher vessels, and non-AFA trawl catcher vessels. Under Amendment 80, the BSAI trawl limited access sector received an allocation of Amendment 80 species (AI Pacific ocean perch, BSAI Atka mackerel, BSAI flathead sole, BSAI Pacific cod, BSAI rock sole, and BSAI yellowfin sole) and crab and halibut PSC. In 2008, some non-AFA catcher vessels prosecuted the new AI Pacific ocean perch and Atka mackerel allocations, and also delivered to Amendment 80 CPs with which they are affiliated. (None of these data are provided quantitatively, as they are confidential.) While the proposed action focuses on Pacific cod, having a suite of fisheries to prosecute under a separate allocation makes it more attractive for catcher vessels to operate out in the Aleutians, and potentially prosecute Pacific cod as a part of that suite.

In addition, implementation of BSAI Amendment 85 likely contributed to the existing conditions. The Council took final action on Amendment 85 in April 2006, and it was implemented by NMFS in 2008. Amendment 85 reallocated BSAI Pacific cod among nine harvest sectors, including establishing separate allocations for the AFA CP sector and the BSAI Amendment 80 sector (i.e., non-AFA trawl CP sector). This allocation was a combined ‘trawl CP sector’ allocation of 23.5% of the BSAI Pacific cod ITAC prior to Amendment 85, and the AFA CP sector was subject to harvest sideboards on how much of the trawl

CP sector allocation it could harvest. The trawl CP sectors are the only sectors under Amendment 85 that harvest a significant portion of their BSAI Pacific cod as incidental catch in a non-Pacific cod target fishery.⁹⁵ Thus, the cod allocations to these sectors must support both a target cod fishery and incidental catch in other target fisheries – primarily pollock in the AFA sector and flatfish in the Amendment 80 sector. (Cod is required to be retained by all sectors when the directed fishery is open, and up to the maximum retainable amount when the directed cod fishery is closed; thus, it is necessary to have a cod allocation in order to fully prosecute other directed fisheries.)

Under Amendment 85, the AFA CP sector received a separate allocation of 2.3% of the BSAI Pacific cod ITAC under Amendment 85, which represents about its average share of the retained BSAI Pacific cod harvest by all (non-CDQ) sectors during 1995 – 2003 (including cod destined for meal production). This allocation was intended to support the one AFA CP that harvests cod in the target cod fishery, as well as the incidental needs of the remainder of the AFA CP pollock fleet.

The non-AFA trawl CP sector (i.e., subsequently the Amendment 80 sector) received a separate allocation of 13.4% of the BSAI Pacific cod ITAC under Am. 85, which represents its average share of the retained BSAI Pacific cod harvest by all (non-CDQ) sectors during 1995 – 2003. However, while the allocation was consistent with this sector’s harvest over a broad series of years, it represented about 2.6% percentage points less than the sector’s average share (16%) during the most recent years proposed (1999 – 2003). In addition, the analysis for Amendment 85 provided information on 2004 and 2005 cod harvests, although these were not qualifying years under the amendment. The data indicate that the non-AFA trawl CP sector harvested about 19.4% and 16.0% of the total retained harvest by all sectors in 2004 and 2005, respectively. In 2006 and 2007, the two years prior to the implementation of Amendment 85, the harvest data indicate that the Amendment 80 CP sector harvested 16.7% and 21.4% (see Table 2). Thus, the Amendment 80 sector realized a reduction in the amount of cod it is allowed to harvest starting in 2008, compared to actual harvest in the most recent years. The Amendment 80 sector has noted that some vessels are attempting to make up for lost cod revenue from a lower harvest allocation by acting as motherships in the AI and receiving cod deliveries from other catcher vessels. As stated previously, the amount of cod delivered to Amendment 80 CPs acting as motherships and estimates of the resulting revenue cannot be provided due to confidentiality rules (only one Amendment 80 CP operated as such in 2007 and two in 2008).

While 2009 harvest data are also confidential for the Amendment 80 sector, only one Amendment 80 CP operated in the trawl A and B seasons in Areas 541/542. Note that the share of CV Pacific cod delivered to all three of the rationalized processing sectors combined in 2009 (29%) was reduced substantially compared to 2008 (57%); thus far, 2009 closely mirrors the 2003 – 2008 average distribution between the rationalized processing vessels and the shoreside sector.

3.3.3.2 Reasonably foreseeable future actions

The following are some upcoming actions that may potentially affect both the status quo (Alternative 1) and the proposed action (Alternative 2) in this amendment. These are discussed in more detail in Section 2.7 of the RIR.

- A proposed action to divide the nine BSAI Pacific cod sector allocations into separate BS allocations and AI allocations, should the BSAI TAC be established as separate BS and AI TACs in a future harvest specifications process.

⁹⁵Table 3-101 of the Secretarial review draft of BSAI Am. 85 indicates that the AFA CP and non-AFA CP sectors harvested about 56% and 54% of their total retained cod in the target cod fishery on average during 1999 – 2003, respectively.

The analysis for this potential action has not been developed, and is scheduled to be discussed at the April 2010 Council meeting, in conjunction with the review of the ‘status quo’ Steller sea lion Biological Opinion. This analysis is necessary should the BSAI TAC be split into separate BS and AI TACs in a future harvest specifications process, in order to avoid the default scenario in which each Pacific cod sector receives the same percentage of its current BSAI Pacific cod allocation in each area.⁹⁶ The Council has scheduled a discussion of this potential analysis during the same meeting as the review of the biological opinion, as the results of the biological opinion may have significant impacts on the direction of this analysis. While signaling an interest in starting the BSAI Pacific cod sector split analysis earlier in the year, the Council recognized that prior to developing the analysis, there is a need to understand the outcome of the ongoing biological opinion, which, among other things, addresses the effects of the status quo BSAI Pacific cod fishery on Steller sea lions. In effect, depending on the outcome of the biological opinion, the status quo for the Pacific cod fishery could be substantially affected.

- The ‘status quo’ Steller sea lion Biological Opinion, which, among other things, addresses the effects of the status quo BSAI Pacific cod fishery on Steller sea lions.

As stated above, depending on the outcome of the biological opinion, the status quo for the Pacific cod fishery could be substantially affected, which may have implications on this proposed amendment to establish processing sideboards on catcher vessel deliveries of Pacific cod harvested in the Eastern and Central Aleutian Islands to processing vessels. The Council requested that initial review of this draft sideboard analysis be scheduled for April 2010, in order to coincide with the review of the ongoing Biological Opinion. At that point, the Council expects to have additional information as to whether the BSAI Pacific cod total allowable catch needs to be allocated separately between the Bering Sea and the Aleutian Islands, as well as any other potential measures that may be established in the BSAI Pacific cod fishery as a result of the Biological Opinion. Due to reasons similar to the situation described above, the Biological Opinion could directly affect whether the draft sideboard analysis prepared for October is accurate and relevant, as both the ‘status quo’ and the potential impacts of the proposed sideboard action could change depending on the outcome of the biological opinion. The biological opinion is scheduled for public release in March 2010, and will be reviewed by the Council at its first subsequent meeting (April).

- Amendment 92 to the Fishery Management Plan for Groundfish of the Bering Sea/Aleutian Island Management Area and Amendment 82 to the Fishery Management Plan for Groundfish of the Gulf of Alaska

Amendment 92/82, approved by the Council in April 2008, makes recommendations to the Secretary of Commerce to modify the groundfish License Limitation Program (LLP) for BSAI and GOA trawl catcher vessel and catcher processor licenses. Relative to the BSAI, the Council recommended that the area endorsements (BS and/or AI) on trawl LLPs be removed unless the license has two trawl groundfish landings during the period 2000 through 2006. Note that the landings thresholds include trawl landings in the parallel and Federal groundfish fisheries. Catcher processor licenses are credited with their landings whether they were operating as a catcher processor or a catcher vessel at the time of landing.

Also as part of that action, the Council approved a provision which has the potential to create new AI endorsements on non-AFA trawl CV LLPs that meet specific criteria. Essentially, the preferred alternative would award AI endorsements to non-AFA trawl CV LLPs with a <60’ MLOA and ≥60’ MLOA that have recent history in the AI parallel Pacific cod fishery, AI parallel groundfish fishery or AI State-water Pacific cod fishery. The endorsements on the <60’ licenses would be severable from the overall license and could be transferred to another non-AFA trawl CV LLP with a trawl CV designation and a comparable <60’ or ≥60’ MLOA designation. It is estimated that 8 trawl CV <60’ MLOA licenses

⁹⁶For example, if the BSAI TAC is split in a future TAC-setting process, the default scenario (absent analysis and rulemaking of other alternatives) is that a sector that currently receives an allocation of 22% of the BSAI ITAC would then receive an allocation of 22% of the BS ITAC and 22% of the AI ITAC.

would qualify to receive an AI endorsement under this provision, 4 of which already hold BS endorsements. It is estimated that 4 non-AFA trawl CV $\geq 60'$ MLOA licenses would qualify to receive an AI endorsement under this provision, all of which already hold BS endorsements. The overall result is that potentially 12 new AI endorsements could be created. Since 5 AI endorsements are estimated to be removed under the amendment, the net gain in AI endorsed licenses is estimated to be 7.

The intent of adding additional AI endorsements was reflected in a portion of the Council's problem statement for BSAI Amendment 92/GOA Amendment 82, which noted that: *"In the Aleutian Islands, previous Congressional and Council actions reflect a policy encouraging economic development of Adak. The opportunity for non-AFA CVs to build catch history in the AI was limited until markets developed in Adak. The analysis indicates that there are only six non-AFA CV trawl AI endorsed LLPs. The Congressional action to allocate AI pollock to the Aleut Corporation for the purpose of economic development of Adak requires that 50% of the AI pollock eventually be harvested by <60' vessels. The Council action under Am. 80, to allocate a portion of AI Pacific ocean perch and Atka mackerel to the limited access fleet, does not modify AFA CV sideboard restrictions, thus, participation is effectively limited to non-AFA vessels with AI CV trawl LLP endorsements. A mechanism is needed to help facilitate the development of a resident fishing fleet that can fish in both State and Federal waters. The Council will consider different criteria for the CV eligibility in the AI."*

The proposed rule for this action was published December 30, 2008, and the public comment period ended February 13, 2009 (73 FR 79773, 12/30/08). The final rule was published August 14, 2009 (74 FR 1080), and September 14, 2009, is the effective date of implementation.

The action under BSAI Amendment 92/GOA Amendment 82 is relevant in that the number of endorsed trawl CV licenses could increase under the proposed action, which provides an opportunity for additional shoreside processing in Adak. It could create up to 12 new AI endorsements on non-AFA trawl CV licenses, which would be eligible to fish in the Federal Pacific cod fishery in the AI. While the newly endorsed AI licenses could be used to fish other fisheries, such as the new trawl limited access fisheries for Atka mackerel and Pacific ocean perch, new effort in those fisheries as a result of these licenses is estimated to be relatively limited, given the size of the vessels, the areas closed to trawling in the AI, and the currently limited shoreside markets for these species in the Aleutians. Of the primary species that may be targeted by non-AFA CVs receiving new AI endorsements, Pacific cod is the species that has received the most participation by trawl catcher vessels. These newly endorsed licenses have been recently active in either the State waters or parallel BSAI Pacific cod fisheries, and thus, while it is not possible to speculate as to the exact level of effort that would be realized in the future by these licenses in the AI, there is a likelihood these licenses would be used in AI Federal waters to prosecute the BSAI Pacific cod fishery in the future. It is not possible to estimate the share of potential new cod harvests that would be delivered shoreside versus to processing vessels operating as motherships.

The above three actions, both separately and cumulatively, result in various implications for the amount of catcher vessel effort in the AI, and specifically, how much Pacific cod is harvested in the AI versus the BS.

4.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS

4.1 Introduction

This Initial Regulatory Flexibility Analysis (IRFA) addresses the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 601-612). This IRFA evaluates the potential adverse economic impacts on small entities directly regulated by the proposed action.

The RFA, first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse economic impacts on small entities as a group distinct from other entities, and on the consideration of alternatives that may minimize adverse economic impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either ‘certify’ that the action will not have a significant adverse economic impact on a substantial number of small entities, and support that certification with the ‘factual basis’ upon which the decision is based; or it must prepare and make available for public review an IRFA. When an agency publishes a final rule, it must prepare a Final Regulatory Flexibility Analysis (FRFA).

In determining the scope, or ‘universe’, of the entities to be considered in an IRFA, NMFS generally includes only those entities that are directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis.

4.2 IRFA requirements

Until the Council makes a final decision on a preferred alternative, a definitive assessment of the proposed management alternatives cannot be conducted. In order to allow the agency to make a certification decision, or to satisfy the requirements of an IRFA of the preferred alternative, this section addresses the requirements for an IRFA. Under 5 U.S.C., Section 603(b) of the RFA, each IRFA is required to contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, record keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:

1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. The use of performance rather than design standards;
4. An exemption from coverage of the rule, or any part thereof, for such small entities.

In preparing an IRFA, an agency may provide either a quantifiable or numerical description of the effects of a proposed action (and alternatives to the proposed action), or more general descriptive statements, if quantification is not practicable or reliable.

4.3 Definition of a small entity

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a ‘small business’ as having the same meaning as ‘small business concern’, which is defined under Section 3 of the Small Business Act. ‘Small business’ or ‘small business concern’ includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor...A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the firm is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. Effective January 5, 2006, a business involved in fish harvesting is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in excess of \$4.0 million for all its affiliated operations worldwide.⁹⁷ A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4.0 million criterion for fish harvesting operations. Finally, a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family

⁹⁷Effective January 6, 2006, SBA updated the Gross Annual Receipts thresholds for determining "small entity" status under the RFA. This is a periodic action to account for the impact of economic inflation. The revised threshold for "commercial fishing" operations (which, at present, has been determined by NMFS HQ to include catcher-processors, as well as catcher vessels) changed from \$3.5 million to \$4.0 million in annual gross receipts, from all its economic activities and affiliated operations, worldwide.

members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when: (1) a person is an affiliate of a concern if the person owns or controls, or has the power to control 50 percent or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) if two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors, or general partners, controls the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint venturers if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small organizations. The RFA defines "small organizations" as any not-for-profit enterprise that is independently owned and operated, and is not dominant in its field.

Small governmental jurisdictions. The RFA defines "small governmental jurisdictions" as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000.

4.4 Reason for considering the proposed action

The Council adopted the following problem statement and additional statements regarding the affected area and sectors on June 10, 2008, and amended them slightly on December 16, 2008:

Problem statement:

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

Affected resource and areas:

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

Affected vessels:

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

4.5 Objectives of proposed action and its legal basis

Under the authority of the Magnuson-Stevens Act, the Secretary of Commerce (NMFS Alaska Regional Office) and the North Pacific Fishery Management Council have the responsibility to prepare fishery management plans and associated regulations for the marine resources found to require conservation and management. NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine fish, including the publication of Federal regulations. The Alaska Regional Office of NMFS, and Alaska Fisheries Science Center, research, draft, and support the management actions recommended by the Council.

The BSAI Pacific cod fishery is managed under the Bering Sea and Aleutian Islands Groundfish Fishery Management Plan (BSAI FMP). The proposed action is a Federal regulatory amendment. The proposed action would establish processing limit(s), in the form of a percentage share of the BSAI Pacific cod catcher vessel ITAC, or a sideboard date, for rationalized motherships, floating processors, or catcher processors that receive deliveries of Pacific cod harvested by catcher vessels in Area 541 and 542 combined, or Area 542 only. Note that the sideboard would apply to stationary floating processors with a Federal Processor Permit (FPP) and catcher processors and motherships with a Federal Fisheries Permit (FFP) that are receiving catcher vessel deliveries of Pacific cod harvested in Areas 541/542.⁹⁸ The sideboards would apply to receipt of Pacific cod deliveries by a processing vessel with an FPP or FFP, from catcher vessels participating in the Federal Pacific cod fishery in Area 541/542 of the EEZ, or the Pacific cod fishery in State waters adjacent to Areas 541/542 opened by the State of Alaska, for which the State of Alaska adopts a Federal fishing season and the harvest of which accrues toward the Federal TAC (i.e., parallel fishery). A similar approach has been taken by other regulated (harvest) sideboard protections.

The intent is to limit the percentage of catcher vessel Pacific cod being processed by processing vessels eligible in the AFA, crab rationalization, and BSAI Amendment 80 programs to an historical share, in order to protect shoreside processing opportunities for Pacific cod harvested in these areas. The problem statement notes that each of these rationalization programs has afforded opportunities for consolidation, thus freeing some processing capacity to target the non-rationalized BSAI Pacific cod fishery at the expense of other industry and community investments.

4.6 Description of the alternatives considered

This analysis evaluates two primary alternatives, with several overlapping components, options, and suboptions. Alternative 1 is the no action alternative, which reflects the status quo (i.e., no processing sideboards). Alternative 2 would establish a processing sideboard on rationalized processing vessels, which would essentially limit the amount of Pacific cod harvested by catcher vessels in Areas 541/542 that could be delivered to processing vessels in the three rationalized sectors (AFA, crab rationalization, and BSAI Am. 80). The combination of components essentially creates a multitude of various potential options for action by the Council.

⁹⁸Refer to 679.4(b) for the FFP requirements, and 679.4(f) for the FFP requirements.

There are two primary components under Alternative 2. Component 1 addresses the overall approach taken to establish either: Option 1) a sideboard limit (annual percentage of BSAI Pacific cod CV ITAC converted to mt) and/or Option 2: a sideboard date, prior to which rationalized processing vessels would be restricted from taking catcher vessel deliveries of Pacific cod harvested in Areas 541/542. Option 1 and Option 2 are not mutually exclusive; the Council could choose to implement both a sideboard limit and a sideboard date or choose one or the other. Two suboptions under each option provide various approaches to establishing the limit and/or date. Option 3 under Component 1 provides an additional option to restrict the entire action to catcher vessel deliveries of Pacific cod harvested only in Area 542.

Component 2 defines the qualifying years by which the sideboard limit and/or sideboard date would be established. There are two general approaches to the qualifying years under Component 2. Option 1 would apply recent history, and there are two suboptions that provide a different series of years: Suboption 1 (2005 – 2007) and Suboption 2 (2003 – 2007). Option 2 would use the years prior to implementation of the three respective rationalization programs: Suboption 1 (3-year period prior to each program’s implementation) and Suboption 2 (5-year period prior to each program’s implementation).

The range of alternatives, components, and options considered under this amendment package is provided in Section 2.2.

4.7 Number and description of directed regulated small entities

There are 19 CPs and 3 motherships listed in the American Fisheries Act that are estimated to be directly regulated (i.e., subject to the sideboard limit and/or date) by the proposed action under Alternative 2. All of these entities are categorized as large entities for the purpose of the RFA under the principles of affiliation, due to their being part of the AFA pollock cooperatives.

There are 28 processing vessels eligible under the BSAI crab rationalization program estimated to be directly regulated by the proposed action. Similar to the AFA, all of these entities are categorized as large entities for the purpose of the RFA under the principles of affiliation, due to their being part of the BSAI crab processing (and potentially, harvesting) cooperatives.

Finally, there are 28 vessels qualified under the BSAI Amendment 80 program estimated to be directly regulated by the proposed action. Vessels qualified under Amendment 80 can elect to apply for Amendment 80 quota share on an annual basis, and if so, also elect to join an Amendment 80 cooperative on an annual basis. In both 2008 and 2009, eight of these vessels elected not to join a cooperative, and instead fished in the Amendment 80 limited access fishery. These vessels are owned by three companies, and all meet the threshold for large entities under the RFA. Three other qualified Amendment 80 vessels did not apply for Amendment 80 quota share, but are still subject to other sideboards within the program. Those vessels also meet the threshold for large entities under the RFA. (A business involved in both the harvesting and processing of seafood products is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in excess of \$4.0 million for all its affiliated operations worldwide.) The remaining Amendment 80 vessels that participated in a cooperative are categorized as large entities for the purpose of the RFA under the principles of affiliation, similar to the AFA and crab sectors.

In sum, there are no small entities, as defined under the RFA, directly regulated by the proposed action. All of the processing vessels directly affected by the proposed action are, by design, eligible under a harvesting and/or processing cooperative, and thus considered large entities for the purposes of the RFA. Those vessels that have not participated in a cooperative in recent years are still eligible on an annual basis to do so, and regardless, meet the threshold for a large entity under the RFA.

4.8 Recordkeeping and reporting requirements

Recordkeeping and reporting requirements are not expected to change as a result of the proposed action. The action under consideration requires no additional reporting or recordkeeping requirements different from the status quo.

However, implementation of a sideboard *amount* under Alternative 2 would require NMFS to calculate and publish the sideboard amount (percentage share converted to metric tons) in Federal regulations on an annual basis, during the annual harvest specifications process. This is consistent with when other sideboard amounts are published. It would also require NMFS to annually track the amount of Pacific cod harvested by catcher vessels in Areas 541 and 542 combined (under Component 1, Option 1) or Area 542 only (under Component 1, Option 3) and delivered to the rationalized processing vessels at issue, in order to implement the sideboard and issue notice should the sideboard be reached. Thus, the catch accounting system at the NMFS Alaska Region would need to be modified to monitor the sideboard.

Alternatively, implementation of a sideboard *date* under Alternative 2 (Component 1, Option 2) would be published in Federal regulations, and would not require annual adjustments. The date would remain in regulations until and unless a subsequent analysis and rulemaking process was undertaken to change it. Thus, there would be no new recordkeeping requirements on behalf of NMFS, with the exception of enforcing the sideboard date.

4.9 Relevant Federal rules that may duplicate, overlap, or conflict with the proposed action

No relevant Federal rules have been identified that would duplicate or overlap with the proposed action under Alternative 2. Some current Federal regulations will need modification to implement the proposed action to establish processing sideboards or a sideboard date.

4.10 Description of significant alternatives to the proposed action that would minimize impacts on small entities

An IRFA also requires a description of any significant alternatives to the proposed action(s) that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. This section is not relevant, as the analysis estimates that no small entities would be directly regulated by the proposed action.

5.0 CONSISTENCY WITH APPLICABLE LAW AND POLICY

This section examines the consistency of the proposed action to establish a processing sideboard on Pacific cod harvested by catcher vessels in Area 541 or 542, which would be applicable to processing vessels eligible in the AFA, BSAI Amendment 80, and crab rationalization programs, with the National Standards and Fishery Impact Statement requirements in the Magnuson-Stevens Act and E.O. 12866. The proposed action could establish the sideboard as a limit on the amount of Pacific cod that may be delivered to the rationalized sectors (expressed as a percentage of the BSAI catcher vessel ITAC), as a sideboard date, or both.

Testimony previously received from the public highlights several factors the Council should consider in evaluating how the proposed action would comport with the National Standards (Sec. 301) in the MSA. All of the National Standards are addressed at least in brief. However, NOAA GC has suggested the Council should, in particular, address several issues under National Standards 4 and 5 during the development of the rationale for the Council's action, should Alternative 2 be selected.

5.1 National Standards

Below are the ten National Standards as contained in the Magnuson-Stevens Act, and a brief discussion of the consistency of the proposed alternatives with each of those National Standards, as applicable.

National Standard 1

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

None of the alternatives considered in this action would affect overfishing of Pacific cod in the BSAI. The alternatives would also not likely affect, on a continuing basis, the ability to achieve the optimum yield from the BSAI Pacific cod fishery. Even if the amount of deliveries that can be made by catcher vessels harvesting Pacific cod in Area 541 and 542 to the rationalized processing sectors is limited by a sideboard (or sideboard date), it is not likely to affect whether the optimum yield from the BSAI Pacific cod fishery can be attained. This is in part because under any sideboard option, a portion (1.6% - 4.0%) of the catcher vessel allocation can be delivered to the rationalized processing sectors, while the remainder can be delivered onshore (e.g., in Adak, Akutan, Dutch Harbor) or to motherships and floating processors not subject to the proposed sideboard. In addition, there is not currently a separate AI TAC, and thus, catcher vessels that determine that the processing opportunities for Pacific cod harvested in Area 541 and 542 are too limited can choose to harvest Pacific cod elsewhere (e.g., in the BS or Area 543 of the AI). Finally, any Pacific cod that remains unharvested by catcher vessels can be reallocated to other sectors, in order to meet the optimum yield requirements under National Standard 1.

National Standard 2

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

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

National Standard 3

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

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

National Standard 4

Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

As stated above, NOAA GC has suggested the Council should, in particular, address several issues under National Standards 4 and 5 during the development of the rationale for the Council's action, should Alternative 2 be selected. The following bullets highlight some of the issues suggested to be addressed under National Standard 4. However, staff notes that concerns under National Standard 4 may be construed as not applicable in this case, as the action does not allocate or assign 'fishing privileges.' The action is restricted to limiting deliveries to particular processing sectors, not harvesting. In the MSA, 'fishing' is defined as the catching, taking, or harvesting of fish (or the attempt to do so), or operations at sea in support of an activity to harvest fish.⁹⁹ Regardless, NOAA GC has posed the following issues:

- How does the proposed action result in an allocation of fishing privileges that is fair and equitable?

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

- In what ways are the proposed processing sideboards reasonably calculated to promote conservation?

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

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

It is worth noting that no amount of Pacific cod is guaranteed to be harvested in Areas 541 and 542, as the BSAI Pacific cod TAC remains area-wide, and catcher vessels can harvest Pacific cod throughout the BSAI. In addition, there is no guarantee that any Pacific cod harvested in Areas 541/542 and not delivered to the rationalized processing sectors would instead be delivered to any particular processing facility (e.g., Adak Fisheries), as catcher vessels may deliver to other motherships or floaters that are not part of the rationalized sectors, the one exempted AFA CP with long-term history in the AI, or shorebased plants in communities other than Adak.

Catcher vessels have been harvesting an average of about 22 percent of their total BSAI Pacific cod harvest in Areas 541/542 since 2000 (Table 3). If CVs continued their average harvest in

⁹⁹Magnuson-Stevens Act, Section 3 (16).

these areas, that suggests that about 7.5% (22% x 34.1% CV allocation) of the total BSAI ITAC could be estimated to be harvested in Areas 541/542 by catcher vessels. The proposed sideboard limits for Areas 541 and 542 combined represent about 0.5% to 1.4% of the total BSAI Pacific cod ITAC. Thus, under the proposed range of sideboard limits, 6.1% to 7.0% of the overall BSAI Pacific cod ITAC (based on the amount of historic catcher vessel Pacific cod harvest in Areas 541/542) would be available for processing by entities not subject to the sideboard limits. Any single shoreside processor would likely process less than these estimates, although it is difficult to project how large a proportion any single entity might actually process under the sideboard limits.

National Standard 5

Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

The following bullets highlight some of the issues suggested by NOAA GC to be addressed by the Council under National Standard 5.

- Do the proposed sideboard limits promote efficient utilization of fishery resources?

The proposed action would serve to limit the markets available to all catcher vessels harvesting Pacific cod in Areas 541/542, during some or all of the Pacific cod A season, and thus reduce the operational flexibility and negotiating leverage of AI catcher vessels, which could potentially lead to a lower price for their catch.

- What are the purposes of this action, aside from economic allocation?

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

National Standard 6

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

None of the proposed alternatives are expected to affect the availability of and variability in the BSAI Pacific cod fishery resource in future years. The harvest would be managed to and limited by the TAC, regardless of the proposed action considered in this amendment.

National Standard 7

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

The proposed action does not duplicate any other management action.

National Standard 8

Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained

participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

The Council may want to consider whether the proposed action resolves an unintended consequence of any of the three rationalization programs at issue, thus furthering the original goals of those programs (see Section 2.1), or making them more consistent with National Standard 8. Note that National Standard 8 requires that the Council take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities; but it does not require or dictate specific action by the Council.

The primary impetus for this action is to limit to historical levels the amount of catcher vessel Pacific cod harvested in Areas 541/542 that can be delivered to and processed by motherships/floaters/CPs in three specific BSAI rationalization programs, in order to protect shoreside processing opportunities for BSAI Pacific cod and benefit processing communities. The shoreside processor that has received the majority of Pacific cod harvested by CVs in Areas 541 and 542 is Adak Fisheries, located in Adak. While this action would not limit deliveries to shoreside processors in any other community (e.g., Akutan, Dutch Harbor), the only other shoreside processor located in Area 541 or 542 is in Atka. This processor does not currently have the capacity to process Pacific cod, but representatives have noted that the plant is being expanded to process both crab and Pacific cod in the future, should it become economically viable. The three-year expansion project is expected to be completed by the 2010 crab season.¹⁰⁰

Consider that representatives of Atka, from APICDA and the city of Atka, have testified to the Council that they oppose an action that would require Pacific cod to be processed onshore. This is primarily due to the current lack of cod processing capability at the Atka plant, and the relationship established with a floating processor, which pays fish taxes to Atka, to process local cod and other species. Even with the new potential for cod processing at the shoreside plant in Atka, representatives of Atka have not supported the proposed action to-date, in part because they are uncertain whether shoreside processing of Pacific cod in Atka will be economically viable in the short and/or long-term.

Proponents of the proposed action from Adak contend that a lack of sideboards preempts a significant opportunity for Pacific cod harvests in these areas to benefit catcher vessels operating out of Adak and delivering their catch to its shorebased processor. The transient markets provided by motherships and floating processors (and CPs acting as motherships) undermine community stability by operating only during the most profitable part of the season. Allowing the share of Pacific cod harvested by motherships to potentially increase in future years (i.e., Alternative 1, no action) may make it difficult for shorebased processors to remain in business and provide the year-round markets necessary for smaller vessels engaged in a suite of different fisheries.

Note, however, that recently, Adak Fisheries' financial situation has changed, and the future operation of the plant has become uncertain. Minimal information is reported here, as much is anecdotal or confidential, and it will likely need to be updated for subsequent analyses. Adak Fisheries realized a substantial reduction in the price per ton paid for frozen head and gut cod product compared to 2008, a global trend which is not limited to Adak Fisheries. As the market dropped, many customers backed out of their pre- and in-season offers. As a result, sales of product from Adak Fisheries have been well below pre-season expectations, and much of the 2009 product is in cold storage. Adak Fisheries is almost paid up for all fish delivered during the Federal Pacific cod A season, but has been unable to pay for all fish delivered in the State water A season and Federal B season.

¹⁰⁰Personal communication, Joe Kyle, APICDA, May 19, 2009.

At the same time, Adak Fisheries did not pay its power bill in full, so power was shut off to the plant in the spring of 2009. Power is supplied by TDX, a power production and distribution company owned by an Alaska Native village corporation.¹⁰¹ In effect, the plant has essentially been in hibernation mode, using generators to keep limited power to the building. Adak Fisheries has generally not processed groundfish (cod) since the Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April). In early August 2009, another company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy. The company has several unpaid creditors, totaling several million dollars. A hearing is scheduled for November 9, 2009, in Anchorage, to sell the Adak plant and related assets to a new company, Adak Seafood, LLC. In sum, it is uncertain whether a shorebased plant will be operational in Adak in the near or long-term future.

National Standard 9

Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

The proposed amendment is not expected to have an effect on bycatch in the BSAI Pacific cod fishery.

National Standard 10

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

The alternatives proposed should have no significant effect on safety at sea. To the extent catcher vessels have to travel further to deliver their catch, in the event that the sideboard limit has been reached, and the two nearby shoreside plants in Adak and Atka are not taking Pacific cod, there could be some effect on safety at sea. However, it is more likely that these vessels would plan in advance for alternative processing options in the event the sideboard is met, or opt not to fish in the AI.

5.2 Section 303(a)(9) – Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that any management measure submitted by the Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. The impacts on participants in the BSAI Pacific cod fishery have been discussed in previous sections of this document (see Section 2.0). The proposed action is not anticipated to have significant effects on participants in other fisheries.

¹⁰¹Tanadgusix Corporation (TDX) is an Alaska Native village corporation created under the Alaska Native Claims Settlement Act of 1971, to provide economic well-being for the indigenous peoples that resided in the village of St. Paul, Alaska.

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Appendix 1. AFA Catcher Processors and Motherships

AFA Catcher processors

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

AFA Motherships

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

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

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

Appendix 2. Processing vessels that contributed to C. Opilio BSAI crab processing quota share allocations

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

Appendix 3. Catcher processors that qualified under BSAI Amendment 80

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

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

Note: Three vessels that qualified under the Amendment 80 program have subsequently sunk (*Alaska Ranger*, *Arctic Rose*, *Prosperity*), and one vessel was sold to Russia (*Bering Enterprise*) and cannot re-enter U.S. fisheries. However, on May 19, 2008, in the case *Arctic Sole Seafoods v. Gutierrez*, the Western District of Washington ruled that a qualified owner of an Amendment 80 vessel may “replace a lost vessel with a single substitute vessel.” This ruling would allow a person to replace an Amendment 80 vessel that has suffered an actual total loss, constructive total loss, or permanent ineligibility to receive a fishery endorsement under 46 U.S.C. 12108. Thus, owners can assign their quota share to the license derived from the ‘lost’ vessel, which then can be fished on a designated replacement vessel.

Appendix 4. 2009 and 2010 BSAI Pacific cod allocations

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

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

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

Appendix 4 continued.

DRAFT 2010 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

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

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

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

Appendix 5. Summary data on the State water Aleutian Islands Pacific cod fishery

Aleutian Islands State waters Pacific cod fishery guideline harvest level and harvest apportionment, 2006 - 2009

| Year | Season | Initial GHL ^b | Season Dates | | Season Length ^a | Harvest ^b | Number of | |
|-------|------------|-----------------------------|--------------|----------|-------------------------------|----------------------|-----------------|------------|
| | | | Opened | Closed | | | Vessels | Deliveries |
| 2006 | A season | 8,981,540 | 15-March | 24-March | 9 | conf. | 26 | 68 |
| | B season | 3,849,232 ^c | 10-June | 1-Sep | 83 | conf. | 5 | 24 |
| | TOTAL | 12,830,772 | | | 92 | 8,860,665 | 29 ^g | 92 |
| 2007 | A season | 8,148,202 | 16-March | 23-March | 7 | 8,229,931 | 29 | 97 |
| | B season | 3,492,086 ^d | 10-June | 1-Sep | 83 | 2,143,310 | 10 | 92 |
| | | | 1-Oct | 3-Dec | 63 | 1,265,760 | 5 | 14 |
| TOTAL | 11,640,288 | | | 153 | 11,639,001 | 41 ^g | 203 | |
| 2008 | A season | 8,148,202 | 10-March | 18-March | 8 | 7,477,507 | 30 | 116 |
| | B season | 3,492,086 ^e | 10-June | 9-July | 29 | 4,241,692 | 18 | 77 |
| | TOTAL | 11,640,288 | | | 37 | 11,719,199 | 45 ^g | 193 |
| 2009 | A season | 8,425,981 | 25-March | 1-April | 7 | 1,737,434 | 19 ^g | 35 |
| | | | 7-April | 9-June | 64 | 4,032,415 | 8 | 15 |
| | B season | 3,611,135 ^f | 10-June | | | | | |
| TOTAL | 12,037,116 | | | | | | | |

^aIn days.

^bIn whole pounds.

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

^d81,729 pounds were deducted from the B season due to an overage during the A season. As a result the GHL at the opening of the B season was 3,410,357 pounds.

^e669,288 pounds remained from the A season and was rolled into the B season. As a result the GHL at the opening of the B season was 4,161,374 pounds.

^f2,656,132 million pounds rolled over into the B season, for a GHL of 6,267,267 pounds.

^gSome vessels participated in both seasons.

Source: ADF&G fishtickets, 2006 – 2009. 2009 B season is ongoing as of 8/25/09.

Conf. = confidential data.

State AI Pacific Cod Fishery by Processor Type, 2006 - 2009

| 2006 Total | Processor Type | Round lbs | Percent | # processors |
|-------------------|----------------------|-------------------|---------|--------------|
| | Floating Processor | 4,859,521 | 55% | 3 |
| | Shorebased Processor | 2,231,720 | 25% | 3 |
| | Catcher Processor | 1,769,424 | 20% | 7 |
| | | 8,860,665 | 100% | |
| 2007 Total | | | | |
| | Floating Processor | ** | ** | 3 |
| | Shorebased Processor | conf. | conf. | 2 |
| | Catcher Processor | 1,948,237 | 17% | 3 |
| | | 11,639,000 | 100% | |
| 2008 Total | | | | |
| | Floating Processor | ** | ** | 5 |
| | Shorebased Processor | conf. | conf. | 2 |
| | Catcher Processor | 4,540,306 | 39% | 6 |
| | | 11,712,936 | 100% | |
| 2009 | | | | |
| A season* | Floating Processor | conf. | conf. | 1 |
| | Shorebased Processor | conf. | conf. | 1 |
| | Catcher Processor | 4,470,668 | 77% | 4 |
| | | 5,769,849 | 100% | |

Source: ADF&G fishtickets, 2006 - 2009.

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

Appendix 5. continued.

State AI Pacific Cod Fishery by Gear Type, 2006 - 2009

| 2006 Total | Gear Type | Round lbs | Percent | Number of Vessels | Number of landings |
|-------------------|------------------|------------------|----------------|--------------------------|---------------------------|
| | Trawl | 7,053,035 | 80% | 20 | 58 |
| | Longline | ** | ** | 11 | 19 |
| | Pot | conf. | conf. | 2 | 14 |
| | | 8,860,665 | 100% | | |
| 2007 Total | Trawl | 6,998,224 | 60% | 20 | 78 |
| | Jig | conf. | conf. | 1 | 2 |
| | Longline | ** | ** | 7 | 80 |
| | Pot | 3,614,870 | 31% | 12 | 43 |
| | | 11,639,000 | 100% | | |
| 2008 Total | Trawl | 6,130,284 | 52% | 22 | 94 |
| | Jig | 92,572 | 1% | 5 | 18 |
| | Longline | 509,296 | 4% | 9 | 25 |
| | Pot | 4,980,784 | 43% | 11 | 56 |
| | | 11,712,936 | 100% | | |
| 2009 | Trawl | 1,295,595 | 22% | 16 | 35 |
| A season* | Jig | conf. | conf. | 1 | 1 |
| | Longline | conf. | conf. | 2 | 5 |
| | Pot | 4,111,699 | 71% | 3 | 9 |
| | | 5,769,849 | 100% | | |

Source: ADF&G fishtickets, 2006 – 2009.

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

Appendix 6

Five-Year Comparison of Shared Taxes and Fees

**Table 6
Fisheries Business Tax**

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

Appendix 6

Five-Year Comparison of Shared Taxes and Fees

Table 6
Fisheries Business Tax

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

Appendix 6

Five-Year Comparison of Shared Taxes and Fees

**Table 6
Fisheries Business Tax**

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

Table 7
Fishery Resource Landing Tax

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

2007 Municipal Sales Tax, Special Tax and Revenues

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

2007 Municipal Sales Tax, Special Tax and Revenues

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

2007 Municipal Sales Tax, Special Tax and Revenues

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