

**Measures to support community protections for Eastern Aleutian Islands communities:
Pacific ocean perch and Atka mackerel processing sideboards
July 2008**

At its June 2008 meeting, the Council requested that staff provide a discussion paper on potential options to establish processing sideboards for Pacific ocean perch and Atka mackerel harvests in the Eastern and Central Aleutian Islands (Areas 541 and 542, respectively). The Council motion redirected staff from providing a formal analysis, as requested at the April meeting, to a discussion paper. The purpose of this paper is to review the Council's draft problem statement and provide a preliminary assessment of the proposed options. (Note that at this same meeting, the Council requested a separate discussion paper on potential options to establish processing sideboards for Pacific cod harvests in the Eastern and Central Aleutian Islands.) The problem statement and options included in the June Council motion are as follows:

Draft problem statement:

The final rule for implementing BSAI Amendment 80 allows participants to act as motherships receiving catcher vessel harvests from a Pacific Ocean perch and Atka mackerel allocation that was set aside specifically for vessels outside of the Amendment 80 program. The Council did not anticipate Amendment 80 entities would establish a catcher vessel fleet to target this set-aside and deliver the harvest to Amendment 80 catcher processors. This unanticipated behavior returns the benefits of this set-aside to the Amendment 80 sector participants.

Sideboard limit:

Limit the amount of POP and Atka mackerel harvested in Areas 541 or 542 that may be delivered to Amendment 80 catcher processors acting as motherships to:

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

Qualifying years:

- Option. 2005 – 2007 (three-year period prior to Amendment 80 program implementation)

Problem Statement & Background

While harvesting sideboards have been included as part of each rationalization program established in the North Pacific, processing sideboards are not as common. For example, processing sideboards were not adopted in either the BSAI Crab Rationalization Program or the BSAI Amendment 80 program. Amendment 80 allocates several BSAI non-pollock trawl groundfish fisheries among fishing sectors, and facilitates the formation of harvesting cooperatives in the non-American Fisheries Act (AFA) trawl catcher processor (CP) sector. In effect, the program establishes a limited access privilege program¹ for the non-AFA trawl catcher processor sector.

¹The 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).”

NOAA Fisheries recently completed its determination of the qualifying vessels under Amendment 80. The license tied to the Amendment 80 quota, as well as all other LLPs assigned to a vessel in the program any time after Amendment 80 program implementation, are restricted from being used by a non-Amendment 80 vessel. The qualification period for the Amendment 80 program was based on harvests from 1997 through 2002; a total of 28 vessels are qualified for the Amendment 80 program.² The 28 licenses originally assigned to the Amendment 80 vessels are listed in the final rule.³ Many of the elements of Amendment 80 were effective on October 15, 2007; the remaining portions of the final rule were effective January 2008.⁴

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.⁵ 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 processing* sector, processing sideboards were not established for the Amendment 80 sector in either the Gulf of Alaska or the BSAI.

The draft problem statement above notes that the final rule for Amendment 80 allows the Amendment 80 trawl CPs to act as motherships and receive catcher vessel harvests from a Pacific ocean perch and Atka mackerel allocation created specifically for vessels outside of the Amendment 80 program, i.e., the ‘trawl limited access sector’. The 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 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.

²The 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.

³On May 19, 2008, in the case *Arctic Sole Seafoods v. Gutierrez*, the Western District of Washington ruled that a qualified owner of an Amendment 80 vessel may “replace a lost vessel with a single substitute vessel.” This ruling would allow a person to replace an Amendment 80 vessel that has suffered an actual total loss, constructive total loss, or permanent ineligibility to receive a fishery endorsement under 46 U.S.C. 12108. For example, a person could replace a lost Amendment 80 vessel with another vessel that had historically been active processing AI Atka mackerel or POP. Thus, the Council should clarify whether an Amendment 80 replacement vessel would be subject to the proposed sideboard restriction, or if the restriction is intended to apply only to the list of Amendment 80 vessels originally identified to be used in the fishery as listed in Table 31 to part 679.

⁴The final rule is published at 72 FR 52668 (September 14, 2007).

⁵The 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.

The proposed action focuses on limiting catcher vessel deliveries of POP and Atka mackerel in Area 541 (Eastern Aleutian District) and Area 542 (Central Aleutian District) to Amendment 80 CPs. In Areas 541 and 542 for Atka mackerel, the trawl limited access allocation starts at 2 percent of the TAC, increasing 2 percent each year up to the maximum of 10 percent. For Pacific ocean perch, the allocation in Areas 541 and 542 begins at five percent of the TAC for the first year, increasing to the maximum amount of 10 percent in the second year. (As an aside, in Area 543 (Western Aleutian District), the Pacific ocean perch allocation is fixed at 2 percent.) Please reference Table 1 below.

Note that the AFA sectors will continue to be subject to harvesting sideboards limiting their participation in the AI Pacific ocean perch and AI Atka mackerel fisheries (Table 2), thus, the new trawl limited access allocations of these species could be harvested in large part by the non-AFA trawl CV sector. Only the AFA CP sideboard for Central AI Atka mackerel exceeds the trawl limited access allocation in the first years.

Table 1 Trawl Limited Access Aleutian Islands Pacific ocean perch and Atka Mackerel Allocations under Amendment 80

Species	Year	Area 541 (eastern AI)		Area 542 (central AI)		Area 543 (western AI)	
		% allocation	allocation in mt	% allocation	allocation in mt	% allocation	allocation in mt
Atka mackerel	year 1	2%	319	2%	434	0	0
	year 2	4%	637	4%	868	0	0
	year 3	6%	956	6%	1301	0	0
	year 4	8%	1275	8%	1735	0	0
	year 5	10%	1593	10%	2169	0	0
POP	year 1	5%	214	5%	222	2%	136
	year 2	10%	428	10%	445	2%	136

Source: 2008 and 2009 harvest specifications, NMFS. Note that Year 1 = 2008 TAC. Years 2 through 5 correspond to 2009 – 2012, and are projections.

Table 2 Trawl limited access AFA CV, CP, and non-AFA CV Aleutian Islands Pacific ocean perch and Atka mackerel allocations and AFA sideboards in Area 541 & 542, 2008 - 2009

Species	Year	Area 541 (eastern AI)					Area 542 (central AI)				
		trawl limited access allocation	AFA CV sideboard	AFA CV sideboard (mt)	AFA CP sideboard	AFA CP sideboard (mt)	trawl limited access allocation	AFA CV sideboard	AFA CV sideboard (mt)	AFA CP sideboard	AFA CP sideboard (mt)
Atka mackerel	year 1 (2008)	2%	0.32%	28	0%	1	2%	0.01%	1	11.5%	2496
	year 2 (2009)	4%	0.32%	22	0%	1	4%	0.01%	1	11.5%	1952
POP	year 1 (2008)	5%	0.77%	34	2%	88	5%	0.25%	11	0.1%	4
	year 2 (2009)	10%	0.77%	33	2%	86	10%	0.25%	11	0.1%	4

The options proposed to resolve the identified problem are processing sideboards, or limits on the amount of Pacific ocean perch and Atka mackerel harvested in the Eastern and Central AI that can be delivered to Amendment 80 CPs. Note that the proposed rule for Amendment 80 did prohibit 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 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, 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. 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, while the final rule for Amendment 80 prohibits 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, it specifically 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.

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.

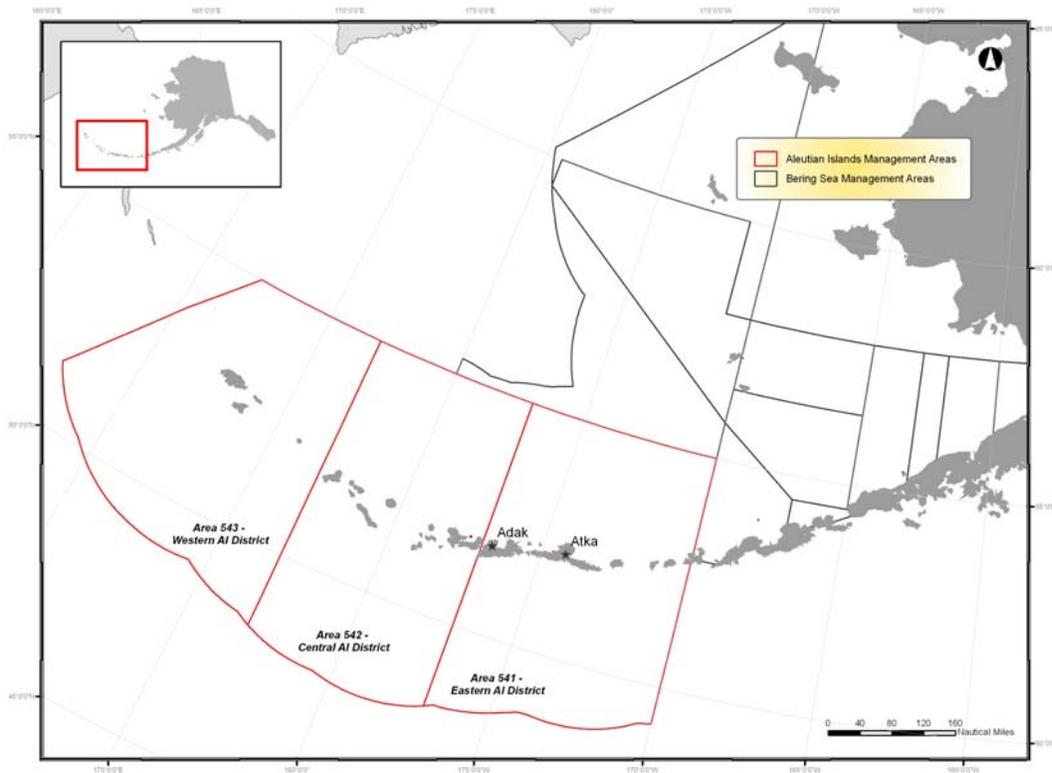
In light of public comment, NMFS reviewed the rationale for the proposed prohibitions, examined the administrative record, and developed additional analysis on the economic impacts of these proposed prohibitions. In general, during each year of a recent time period (2003 – 2006), only one Amendment 80 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).⁶

In sum, the draft problem statement for this action asserts that the Council did not anticipate that Amendment 80 entities would establish a catcher vessel fleet to target the BSAI trawl limited access allocations of Pacific ocean perch and Atka mackerel in the Aleutians, and deliver that harvest to Amendment 80 CPs. However, the proposed and final rules for Amendment 80 clearly anticipated and analyzed this issue, and did not find its future potential impacts on the non-Amendment 80 sectors or onshore processing sectors likely to be substantial.

While the need to protect coastal communities and their shoreside processing opportunities is not specifically mentioned in the draft problem statement, 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 the BSAI trawl limited access sector allocations of POP and Atka mackerel by Amendment 80 vessels preempted a significant opportunity for Area 541 (EAI) harvests to benefit vessels operating out of Adak. They assert that a catcher vessel fleet affiliated with Amendment 80 entities is targeting the BSAI trawl limited access allocations of POP and Atka mackerel and delivering to Amendment 80 catcher processors, and that this allocation was clearly not intended to benefit Amendment 80 entities. Table 7 in the Amendment 80

⁶Note 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.

proposed rule provides key rationale developed by the Council for the specific allocations of ITAC and PSC to the Amendment 80 and BSAI trawl limited access sectors. Relative to the BSAI trawl limited access sector allocation of AI POP and Atka mackerel, it states:

“(1) Historic (from 1998 through 2004) and more recent (2005 and 2006) catch data indicate that the Amendment 80 sector caught and retained nearly 100 percent of the TAC of these species in all management areas.

(2) AI POP in Areas 541 and 542, and Atka mackerel in Areas BS/541 and 542 may be harvested by smaller trawl vessels, primarily operating out of Adak, Alaska. These smaller trawl vessel operators expressed a desire to harvest Atka mackerel during the development of the Program.

(3) A specific allocation to the BSAI trawl limited access sector would provide additional opportunities for harvest by smaller trawl vessels. The total allocation to the BSAI trawl limited access sector would increase slightly each year to provide the BSAI trawl limited access sector time to scale operations up to the level of the allocation.” (emphasis added) (72 FR 30066, 5/30/07)

It may help to amend the draft problem statement to clearly state that the issue is specific to the *trawl limited access allocations* of AI POP and Atka mackerel, if that is the intent. In addition, it may help to clarify that the concern with returning the benefits of the trawl limited access allocation to the Amendment 80 sector is the notion that those benefits are redistributed from a non-Amendment 80 trawl sector that could target those species in Area 541 and 542, and adjacent shorebased processors. In that case, one may assert that the transient markets provided by Amendment 80 CPs acting as motherships 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. In addition, to the extent that this action would slow the harvest of the allocations, it could benefit smaller vessels. The public and the Council may benefit from changes to the problem statement that clarify the problem, whether real or perceived, at this point.

Background data on the Atka mackerel and POP fisheries

The first several tables provide background information on the POP and Atka mackerel fisheries for reference. Table 3 shows the total harvest (retained and discarded catch) of POP and Atka mackerel in the BSAI by year and operating type (CP or CV), from 2003 through June 2008. This provides the last five full years of data, plus the 2008 data that are available at this time. This table includes harvest from any gear type, although the vast majority is from vessels using trawl gear. The majority of the harvest by both species has been by CPs, most notably Amendment 80 CPs. The CV harvest of Atka mackerel has been relatively steady between 1,000 and 2,000 mt each year; the CV harvest of POP has gradually increased each year since 2003, but has remained less than 1,000 mt. Note that the 2008 data only includes harvest through June 2008.

Note also that the 2008 and 2009 harvest specification tables for Atka mackerel and POP are provided as Appendix 1 to this paper for reference.

Table 3 Total catch of Atka mackerel and Pacific ocean perch in the BSAI, 2003 - 2008

Year	Harvest sector ¹	Species	Vessel Count	Metric tons	% of total by species
2003	CP	Atka M	59	52,053	96%
	CV	Atka M	208	1,992	4%
	CP	POP	51	13,518	97%
	CV	POP	181	374	3%
2004	CP	Atka M	55	54,490	97%
	CV	Atka M	175	1,577	3%
	CP	POP	50	10,818	96%
	CV	POP	122	403	4%
2005	CP	Atka M	55	56,621	98%
	CV	Atka M	152	1,021	2%
	CP	POP	53	9,313	95%
	CV	POP	114	505	5%
2006	CP	Atka M	52	56,127	98%
	CV	Atka M	149	1,344	2%
	CP	POP	51	11,413	95%
	CV	POP	106	647	5%
2007	CP	Atka M	46	52,725	97%
	CV	Atka M	159	1,374	3%
	CP	POP	51	16,337	95%
	CV	POP	103	857	5%
2008 (through June)	CP	Atka M	36	19,197	99%
	CV	Atka M	112	155	1%
	CP	POP	34	3,114	85%
	CV	POP	73	560	15%

Source: NMFS Catch accounting database, 2003 - 2008. 2008 data include harvests through June 2008. Metric tons = total catch (retained and discarded) by CVs and CPs using any gear type. Excludes CDQ harvests.

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.

Vessel count means the unique number of vessels that landed each species.

The Atka mackerel allocations are allocated equally between two seasons, with the A season from January 20 – April 15 and the B season from September 1 - November 1. Any harvest of between seasons is primarily from incidental catch of Atka mackerel in other directed fisheries. Unharvested TAC in the A season can be rolled over to the B season. The Pacific ocean perch fishery for the BSAI trawl limited access sector opened on February 26 this year; this fishery is not seasonally allocated. While some harvest occurred in February/March of this year in the Aleutian Islands, most catch occurred in July.⁷

Note also that one vessel in the BSAI trawl limited access fishery registered for the HLA (harvest limited area)⁸ Atka mackerel fishery for the B season. None of the vessels in the BSAI trawl limited access

⁷As of August 2008: for the Pacific ocean perch fishery in the Bering Sea, most catch occurred during week ending 2/9; for Western AI, the majority of the harvest occurred during weeks ending 7/19 and 7/26; for the Central AI, during the week ending 7/19; for the Eastern AI, during the week ending 7/12. Personal communication, J. Hogan, NMFS, 8/6/08.

⁸In general, the HLA is a brief Atka mackerel directed fishery in the Central or Western AI for which trawl vessels must pre-register by the first work day after January 1 or July 31. Vessels are randomly assigned to fish in the Central or Western AI, starting 48 hours after the Eastern AI closes. The HLA lasts no longer than 14 days, and participating vessels may only directed fish for Atka mackerel during the HLA.

fishery registered for the HLA Atka mackerel fishery during the A season. If any portion of the Atka mackerel or POP incidental catch allowance or ITAC assigned to the BSAI trawl limited access sector is determined to be unlikely to be harvested, NMFS can reallocate that remaining amount to the Amendment 80 cooperatives.

Table 4 differs from the previous tables in that it breaks out the total trawl harvest of Atka mackerel in Areas 541 and 542 combined (Eastern and Central AI, respectively), compared to the total trawl harvest of Atka mackerel in the entire BSAI, by trawl operating type, from 2003 through June 2008. While the vast majority of the Atka mackerel trawl harvest has been taken by CPs, the CV harvest in 2007 increased substantially compared to prior years. Few vessels contributed to this increase. Recall that the BSAI trawl limited access allocations of Atka mackerel in Areas 541 and 542 were not effective until this year (2008), with the implementation of Amendment 80. Most of the Atka mackerel catch not attributed to Areas 541 and 542 is from Area 543 (Western AI). Note that currently, the Eastern AI/Bering Sea Atka mackerel allocation is combined; however, harvest from the Bering Sea is primarily incidental catch, and has recently been 3,000 to 4,000 mt annually.

Table 4 Total trawl catch of Atka mackerel in the Eastern and Central AI and BSAI, 2003 - 2008

YEAR	Harvest Sector ¹	(Area 541 & 542 only) Vessel Count	(Area 541 & 542 only) Metric tons ²	BSAI Vessel Count	BSAI Metric tons ³
2003	CP	14	31,016	37	52,031
	CV	32	50	121	1,787
2004	CP	14	30,793	39	54,454
	CV	21	31	113	1,436
2005	CP	13	35,961	38	56,598
	CV	16	5	108	785
2006	CP	14	40,761	39	56,116
	CV	20	21	101	992
2007	CP	15	41,697	39	52,703
	CV	37	1,039	110	1,317
2008	CP	9	13,007	30	19,194
	CV	36	142	97	155

Source: NMFS Catch accounting database, 2003 - 2008. 2008 data include harvests through June 2008. Harvest (mt) is total catch (retained and discarded) by CVs and CPs using trawl gear. Excludes CDQ harvests.

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.

²Area 541 = Eastern AI and Area 542 = Central AI.

³The harvest areas included in the BSAI column are the Eastern AI/BS, Central AI, and Western AI allocations. Harvest from the BS is primarily incidental catch (recently 3,000 mt to 4,000 mt per year).

Table 5 shows the same information as Table 4, but for Pacific ocean perch. Table 5 breaks out the total trawl harvest of POP in Areas 541 and 542 combined, compared to the total trawl harvest of POP in the entire BS and AI, by trawl operating type, from 2003 through June 2008. While the vast majority of the POP trawl harvest has been taken by CPs, the Aleutian Islands CV harvest in 2007 and 2008 increased substantially compared to prior years. Note that most of the POP catch not attributed to Areas 541 and

542 is from Area 543 (Western AI). The Bering Sea allocation of POP is relatively small compared to the Aleutians (refer to Appendix 1 for the harvest specifications).

Like with Atka mackerel, the trawl limited access allocations of POP in Areas 541 and 542 were not effective until this year (2008), with the implementation of Amendment 80. Thus, there is not yet a year of complete data to show whether those allocations are fully prosecuted and by which sectors.

Table 5 Total trawl catch of Pacific ocean perch in the Eastern and Central AI and BSAI, 2003 - 2008

Year	Harvest Sector	(Area 541 & 542 only) Vessel Count	(Area 541 & 542 only) Metric tons	Harvest Sector ¹	Area	Vessel Count	Metric tons
2003	CP	13	6,724	CP	AI	13	12,753
	CV	31	8	CV	AI	31	8
				CP	BS	29	765
				CV	BS	98	364
2004	CP	14	5,326	CP	AI	14	10,475
	CV	20	18	CV	AI	20	18
				CP	BS	34	340
				CV	BS	90	386
2005	CP	14	4,513	CP	AI	14	8,926
	CV	15	17	CV	AI	15	17
				CP	BS	30	386
				CV	BS	87	487
2006	CP	15	5,873	CP	AI	15	11,022
	CV	20	31	CV	AI	21	31
				CP	BS	32	391
				CV	BS	74	614
2007	CP	16	8,648	CP	AI	16	15,693
	CV	38	412	CV	AI	38	647
				CP	BS	29	640
				CV	BS	85	210
2008	CP	9	2,328	CP	AI	9	2,967
	CV	37	440	CV	AI	37	527
				CP	BS	22	112
				CV	BS	19	0

Source: NMFS Catch accounting database, 2003 - 2008. 2008 data include harvests through June 2008. Harvest (mt) is total catch (retained and discarded) by CVs and CPs using trawl gear. Excludes CDQ harvests.

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.

²Area 541 = Eastern AI and Area 542 = Central AI.

³The harvest areas included in the AI rows are the Eastern AI, Central AI, and Western AI allocations.

Background data on Adak and Atka

Adak and Atka are the two communities located in the Eastern AI that the processing sideboards are intended to protect, by limiting the amount of deliveries of Atka mackerel and POP that Amendment 80 CPs can receive from catcher vessels harvesting these species in the Eastern and Central AI.

Limited profiles of Atka and Adak are provided here for reference from two sources.⁹ Atka is located on Atka Island towards the end of the Aleutian Island archipelago. It is the western most fishing community in the Aleutian chain, and has a 2000 U.S. Census population of 92. Residents of Atka are primarily Alaska Native (Aleut), and the economy is predominantly based on subsistence living as well as commercial fishing. Atka is a CDQ community, represented by APICDA, and has a small onshore processor (Atka Pride Seafoods) which serves the local fleet and employs local residents. The primary species processed are halibut and sablefish, and the commercial fleet delivering to Atka is involved mainly in those fisheries. According to the CFEC, 4 permits were held by 3 permit holders in Atka in 2006, and 2 permits were held by 2 permit holders in 2007.

Note that the Council received a letter from city leaders in Atka at its April 2008 meeting, related to a proposal from Adak Fisheries for NMFS to develop an emergency rule to require that all trawl cod harvested in the region be delivered onshore in the 2009 A season.¹⁰ 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 floating processor (Independence, Trident Seafoods) to purchase and process Pacific cod. Trident pays a local sales tax to Atka, as well as raw fish taxes. The letter notes that Atka is planning to transition to a shoreplant for processing crab and Pacific cod 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. Atka plans to use Trident's floater to process that crab this season, with plans to reconstruct its onshore processor and add a crab processing line in time for the 2009/2010 crab season.¹¹ The intent is to reconstruct the plant and add Pacific cod capacity as well, but representatives of Atka have emphasized that the ability to use a stationary floating processor in Atka is necessary in both the short and long-term for the viability of that community. Anecdotal evidence suggests that a high volume of cod is necessary to make cod operations economically viable, whether the operation is a shorebased plant or floating processor. Atka recognizes it would need to substantially increase its shoreplant capacity in order to make cod processing economically feasible.

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

⁹Community information on Atka is from the "Community Profiles for North Pacific Fisheries – Alaska", U.S. Dept. of Commerce, NOAA Fisheries, NMFS, AFSC. December 2005, pp. 297 – 300. Community information on Adak is from the "Comprehensive Baseline Commercial Fishing Community Profiles: Sand Point, Adak, St. Paul, and St. George, Alaska", prepared for the NPRB and NPFMC by EDAW, June 2008.

¹⁰Letter from L. Prokopeuff, M. Snigaroff, and L. Lokanin, to E. Olson, Council Chair, April 2, 2008.

¹¹Larry Cotter, APICDA, personal communication, August 15, 2008.

AI pollock fishery (allocated to the Aleut Corporation). Adak is pursuing a broader range of fisheries for a resident fleet to be able to deliver to Adak Fisheries, the shoreside processor located on Adak.

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

The following tables show various species or categories of species delivered to the shoreside plant in Adak (Adak Fisheries) during 2003 - 2007. 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.¹² Harvest from the Aleutian Islands is differentiated from the Bering Sea, and Pacific ocean perch and Atka mackerel harvest data are provided when possible. 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 were 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, the two primary species processed in Atka are halibut and sablefish. Table 6 shows that the majority of the deliveries to Adak Fisheries during this time period have been Pacific cod. 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 included. The allocation to the State water Pacific cod fishery is 3% of the BSAI Pacific cod ABC. Table 7 shows the same type of information for Adak Fisheries from January through June 2008. The 2008 data are provided in a separate table, as the data source is different from that of Table 6. Harvest data in Table 7 is from the NMFS catch accounting system, since 2008 fishticket data are not yet available.

Note that Pacific cod continues to be the primary species delivered to Adak thus far in 2008. Relatively little Atka mackerel or Pacific ocean perch has been delivered in recent years; however, as previously noted, 2008 is the first year of the BSAI trawl limited access sector allocations for these species in the AI. Part of the stated impetus for creating these allocations is that POP and Atka mackerel in Areas 541 and 542 may be harvested by smaller trawl vessels, primarily operating out of Adak. These smaller trawl vessel operators expressed a desire to harvest Atka mackerel during the development of Amendment 80, and the allocations were intended to provide additional opportunities to do so. As stated in the rule, the total allocation to the BSAI trawl limited access sector increases slightly each year to provide the BSAI trawl limited access sector time to scale operations up to the level of the allocation.

¹²Received by ADF&G, signed by William Tisher, July 30, 2008.

Table 6 Number of vessels delivering and amount (mt) to Adak Fisheries, by species or species group, 2003 - 2007

YEAR	FMP Area	Species	Vessel count	Metric tons
2003	AI	Pacific cod	23	8,706
	AI	crab	15	925
	AI	halibut	29	610
	AI	other groundfish	27	294
	BS	BS groundfish	3	2
2004	AI	Pacific cod	19	9430
	AI	crab	7	679
	AI	other groundfish	30	159
	AI	Atka mackerel	4	0
	AI	POP	4	3
	BS	BS groundfish	2	conf.
	BS/AI	halibut	25	430
2005	AI	Pacific cod	16	6,438
	AI	crab	2	conf.
	AI	halibut	21	326
	AI	other groundfish	19	292
	BS	BS groundfish	2	conf.
2006	AI	Pacific cod	19	6,449
	AI	halibut	11	117
	AI	other groundfish	18	972
	AI	POP	1	conf.
	WG	WG halibut	1	conf.
2007	AI	Pacific cod	41	12,435
	AI	crab	2	conf.
	AI	other groundfish	17	1,385
	AI	POP	2	conf.

Source: ADF&G Fishtickets, 2003 – 2007.

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

Note: The category "other groundfish" may include small amounts of octopus and/or sculpin. Small amounts of custom processed crab species that were physically processed in Adak under another plant name are not included.

Table 7 Number of vessels delivering and amount (mt) to Adak Fisheries, by species, 2008

Year	FMP Area	Species	Vessel Count	Metric tons
2008	AI	Arrowtooth Flounder	22	11
2008	AI	Atka Mackerel	18	2
2008	AI	BSAI Alaska Plaice	1	conf.
2008	AI	BSAI Other Flatfish	14	<1
2008	AI	BSAI Rougheye Rockfish	19	<1
2008	AI	BSAI Shortraker Rockfish	5	3
2008	AI	BSAI Squid	4	<1
2008	AI	Flathead Sole	17	2
2008	AI	Greenland Turbot	5	5
2008	AI	Northern Rockfish	19	12
2008	AI	Other Rockfish	26	7
2008	AI	Other Species	26	47
2008	AI	Pacific Cod	37	5347
2008	AI	Pacific Ocean Perch	19	282
2008	AI	Pollock	18	425
2008	AI	Rock Sole	20	75
2008	AI	Sablefish	7	99
2008	AI	Yellowfin Sole	11	<1

Source: NMFS Catch accounting system, January through June 2008.

Includes CDQ and AI State waters fisheries. Includes total catch (retained and discarded).

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

Table 8 shows the number of unique vessels that delivered to Adak and Atka during 2003 – 2007, 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 8 shows deliveries from all FMP areas delivered to these communities, the vast majority is from Areas 541 (EAI) and 542 (CAI).

Table 8 shows that 27 to 70 vessels annually have delivered species harvested in the Aleutian Islands to Adak during 2003 – 2007, with those annual harvests ranging from about 7, 000 mt (2005) to 14,000 mt (2007). A few vessels also delivered species harvested in the Bering Sea, and one in the Western Gulf. Table 8 also shows that 3 to 7 vessels annually delivered species harvested in the AI to Atka. The amount of catch delivered to Atka cannot be reported due to confidentiality rules. There are a few catch records for each community without statistical area information.

Table 8 Number of unique vessels delivering any species to Adak and Atka during 2003 - 2007, and tons landed

Year	FMP Area	City	Vessels	Metric tons
2003	AI	Adak	70	10,535.6
	BS	Adak	3	2.0
	--	Atka	2	**
	AI	Atka	7	**
2004	AI	Adak	48	10,665.1
	BS	Adak	5	23.4
	--	Adak	1	**
	--	Atka	3	**
	AI	Atka	6	**
2005	AI	Adak	34	7,222.0
	BS	Adak	2	**
	--	Atka	1	**
	AI	Atka	5	**
2006	AI	Adak	27	7,566.6
	WG	Adak	1	**
	AI	Atka	7	**
2007	AI	Adak	48	14,137.9
	AI	Atka	3	**

Source: ADF&G Fish tickets, 2003 - 2007.

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.

The CFEC data (not provided) also show that there are two Adak vessels delivering to Adak and two Atka vessels delivering to Atka during 2003 – 2007. This means that Adak and Atka are reported as the vessel owner's residence, based on CFEC vessel ownership records. However, 'homeport' information, or vessel owner residence information, may not provide a complete picture of the fleet of vessels delivering to these communities. Additional vessels can be considered 'local' by residents and actively engaged in local fisheries. Table 9 and Table 10 attempt to provide some information on the fleet of vessels that deliver various levels of landings to each of these communities, even though they may not be 'homeported' in these communities.

Table 9 provides a summary of participation patterns during 2003 – 2007. This table shows that of the 116 unique vessels that have made landings in Adak during 2003 – 2007, 5 of those have delivered all five years; 9 have delivered in four of the five years; 17 have delivered in three of the five years; 31 have delivered in two of the five years; and about half (54) have delivered in only one of the five years. The vessels represented in each column are unique vessels, and the rows are additive. Thus, there are 31 (17+9+5) vessels that have delivered to Adak in at least three of the five years during 2003 – 2007.

Table 9 Participation pattern of vessels that delivered to Adak and Atka, 2003 - 2007

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

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

In Atka, there are significantly fewer vessels delivering shoreside. Table 9 shows that of the 10 unique vessels that have reported deliveries to Adak during 2003 – 2007, 1 of those has made landings in Atka all five years; 3 have delivered in four of the five years; 1 has delivered in three of the five years; 3 have delivered in two of the five years; and two have delivered in only one of the five years. Thus, half of the vessels (5) have made landings in Atka in at least three of the five years during 2003 – 2007.

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

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

Table 10 Number of vessels with at least one, five, or ten landings in Adak and Atka annually and percent of harvest, 2003 - 2007

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

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

Review and clarification of the proposed options

There are effectively two proposed options for establishing processing sideboard limits on POP and Atka mackerel harvested in Areas 541 and 542 that may be delivered to Amendment 80 CPs:

- Option 1. The greatest amount delivered within 2005 – 2007
- Option 2. The average annual amount delivered within 2005 – 2007

There are several questions surrounding the options that need to be addressed, as well as some assumptions that may be well understood but are not explicit in the language of the options. These are summarized in the following bullets. The first questions pertain to how the sideboards are structured:

- Staff interprets the above options as the amounts delivered (whether greatest or average) from catcher vessels to Amendment 80 CPs acting as motherships. The Council should clarify whether total or retained catch should be used.
- Staff currently assumes that Option 1 means the greatest annual amount delivered within 2005 – 2007 (not the total amount aggregated across all three years).
- Staff currently assumes that there would be separate processing sideboards for POP and Atka mackerel. The Council should clarify if that is not the correct interpretation of the options.
- All sideboard limits to date have been expressed as percentages of an ITAC or allocation. The options propose a processing sideboard ‘amount’. Staff currently assumes that this amount would be calculated into a percentage based on the proposed qualifying years, so as to fluctuate with the TAC. Two different ways to do this are provided below; the Council would need to select a preferred approach:
 1. Convert the Am. 80 processing history in Areas 541/542 to a percentage of the total trawl CV catch of each species in Areas 541/542 to determine the sideboard percentage. That percentage would be applied to the trawl limited access allocation for each species in those areas on an annual basis. This approach would allow the processing sideboard to increase or decrease as the trawl limited access allocations increase or decrease. Note that the trawl limited access allocations are scheduled to step-up (percentage increase) over time, which would result in the sideboards increasing as well.
 2. Convert the Am. 80 processing history in Areas 541/542 to a percentage of the total catch of each species in Areas 541/542 to determine the sideboard percentage. That percentage would be applied to the total TACs for each species in those areas on an annual basis. This approach would result in a sideboard that fluctuates with the TAC, but would not be linked to the step-up in the trawl limited access allocations.
- The Council should clarify whether the sideboards are to be established in the aggregate for Areas 541 and 542. In effect, one processing sideboard for all POP harvested in Areas 541 and 542 combined, and one processing sideboard for all Atka mackerel harvested in Areas 541 and 542 combined. This is the current staff assumption, and is a simpler approach to administer and manage than separate sideboards for each area.

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

- Staff assumes that 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 Council should clarify if that is an incorrect assumption.

The central idea of this action is that Amendment 80 created surplus processing capacity by allowing for consolidation of a rationalized (Amendment 80) 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.¹³ 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 processing sideboard to all eligible Amendment 80 CPs, or to limit its application to Amendment 80 CPs participating in cooperatives.

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

For these reasons, absent further Council direction, staff assumes that the processing sideboards 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.

- Are the sideboards intended to apply only to Amendment 80 CPs acting as motherships, or also to Amendment 80 CPs acting as stationary floating processors?

It is necessary for the Council to clarify whether the sideboard would apply only to Amendment 80 CPs acting as motherships, or also to Amendment 80 CPs potentially acting as stationary floating processors. The language of the motion currently states that the sideboard applies to “Amendment 80 CPs acting as motherships.” While it may be unlikely that Amendment 80 CPs would act as stationary floating processors, the potential remains, and the implementing regulations would need to clearly articulate the CPs 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).¹⁴ 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

¹³NMFS 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.

¹⁴A 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.

operate in State waters in a single geographic location, and thus are included in the definition of mothership. If it is not the Council's intent to include Amendment 80 CPs acting as stationary floating processors, it should clarify the sector to which the sideboard should apply. As currently stated, the proposed processing sideboards would apply to all Amendment 80 CPs receiving and processing groundfish from other vessels harvesting POP and Atka mackerel in Areas 541 and 542, regardless of whether they were acting as a 'true' mothership or a stationary floating processor.

Finally, the last question pertains to the scope of the sideboards:

- Do the proposed processing sideboards apply to POP and Atka mackerel harvested in the Eastern and Central AI from the trawl limited access allocation only? Or do they also include the Eastern AI/Bering Sea Atka mackerel jig allocation?

The draft problem statement references a need to protect the POP and Atka mackerel BSAI trawl limited access allocations ("POP and Atka mackerel allocation that was set aside specifically for vessels outside of the Amendment 80 program"). However, the options do not specifically limit the processing sideboards to apply only to deliveries of POP and Atka mackerel from the BSAI trawl limited access allocations or trawl gear only in Areas 541 and 542. As stated, the language could be interpreted to limit deliveries to Amendment 80 CPs of POP and Atka mackerel harvested in the Eastern and Central AI from all sources and gear types.

Clearly, the sideboard does not intend to limit the amount of POP and Atka mackerel that Amendment 80 vessels in cooperatives may deliver to each other. And the final rule for Amendment 80 already prohibits an Amendment 80 vessel assigned to an Amendment 80 cooperative 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. But it is unclear whether the intent is to limit the amount of Eastern AI/BS Atka mackerel that Amendment 80 CPs may receive from jig vessels. Note that Amendment 80 did not affect the Eastern AI/BS jig allocation. The jig allocation of BSAI Atka mackerel was established under BSAI Amendment 34, and was effective in January 1998.¹⁵ The regulation allows jig vessels to receive up to 2 percent of the TAC of Atka mackerel specified for the Eastern AI/BS, based on past harvests in recent years, anticipated harvests, and the extent to which a jig allocation will support development of a jig fishery for Atka mackerel while minimizing the annual amount that remains unharvested. In recent years, the jig allocation has been 0.5% of the Eastern AI and the Bering Sea subarea TAC (after subtraction of the CDQ allocation and ICA); this equates to 80 mt in 2008 and a projected 61 mt in 2009.

NMFS reports that no vessels have targeted Atka mackerel with jig gear in the Eastern AI/Bering Sea since this allocation was established in 1998. The most recent jig harvest reported in the NMFS blend database was from 1994 and 1995, with very little relative harvest. There are no regulations that allow for reallocation or use by any other sector if the jig allocation remains unharvested in a given year.

Given the questions above, it may benefit the public to clarify the language of the options if the proposed processing sideboards are intended to apply only to Amendment 80 CPs acting as motherships that receive POP and Atka mackerel from the BSAI trawl limited access allocations in the Eastern and Central AI. The language could be revised as follows, or could also be revised to include the EAI/BS Atka mackerel jig allocation:

¹⁵See 50 CFR 679.20(a)(8)(i). Final rule: <http://209.112.168.2/frules/bsa34.pdf>

Sideboard limit:

“Limit the amount of POP and Atka mackerel from the BSAI trawl limited access allocations harvested in Areas 541 or 542 that may be delivered to Amendment 80 catcher processors acting as motherships to...”

Preliminary analysis of options

The proposed options are currently as follows:

Limit the amount of POP and Atka mackerel harvested in Areas 541 or 542 that may be delivered to Amendment 80 catcher processors acting as motherships to:

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

Qualifying years:

- Option. 2005 – 2007 (three-year period prior to Amendment 80 program implementation)

Table 11 shows the total catcher vessel harvest of Atka mackerel and Pacific ocean perch harvested in Areas 541 and 542, by the processor sector to which the fish were delivered, during 2003 through June 2008 combined. The processing sectors are motherships, shoreside processors, and stationary floating processors. Because there were only two stationary floating processors that received Atka mackerel and Pacific ocean perch catcher vessel deliveries from these areas, the data for that sector cannot be shown due to confidentiality restrictions. Thus, deliveries to the stationary floating processor sector, of which there are relatively few, are combined with the shoreside processor sector.

Table 11 Total catcher vessel harvest of Atka mackerel and Pacific ocean perch from Areas 541 and 542, by processing sector, 2003 - June 2008

Processing sector	Species	Processor count (# processors taking deliveries)	# Am. 80 CPs acting as motherships	Vessel count (# of vessels delivering)	Metric Tons (2003 - June 08)
Mothership	Atka M	5	2	38	1,192
Shoreside + stationary floaters	Atka M	9	-	68	108
Mothership	POP	5	2	37	272
Shoreside + stationary floaters	POP	9	-	79	655

Source: NMFS catch accounting database. Total catch (retained and discarded), includes data from 2003 - June 2008. Excludes CDQ harvest.

Note: Vessel count shows number of unique vessels delivering each species to each processing sector.

Note: Shoreside and stationary floating processors are combined for the purposes of this table, in order to avoid confidentiality concerns. Seven shoreside processors and two stationary floating processors reported for each species during the 2003 - June 2008 time period.

There are a total of 8 unique shoreside processors that received deliveries of either of these species during 2003 – June 2008, located in Dutch Harbor, Akutan, Adak, King Cove, and Atka. The data show that some of these processors received very little of each species (<1 mt), which may represent incidental catch when delivering another target species in some cases. Note that the tables in these sections use the NMFS catch accounting database, and include both retained and discarded catch. Table 11 shows that motherships received the majority of the deliveries (92 percent) of Atka mackerel during this 2003 – June 2008, with two of those being Amendment 80 CPs acting as motherships. In the POP fishery, motherships received about 30 percent of the catcher vessel deliveries in those areas.

Confidentiality limitations also preclude the analyst from providing harvest data by individual year in most years (see Table 12 below). In the earlier years (2003 – 2006) there were typically 1 or 2 motherships processing these species in Area 541 and 542 each year, and 1 or 2 stationary floating processors, thus, there are not enough entities to provide harvest data. The years in which the analyst can provide the amount (in mt) delivered to motherships separately from that of the shoreside and stationary floating processor sectors are provided below in Table 12.

In 2006, three motherships received about one-third of the Atka mackerel deliveries; 2006 data are confidential for POP. In 2007, the mothership sector (comprised of 4 vessels) received the vast majority of Atka mackerel catcher vessel harvest from the Central and Eastern AI, with one Amendment 80 CP operating as a mothership. As mentioned previously, few vessels contributed to the vast majority of the 2007 Atka mackerel CV harvest. For POP, the mothership sector received about one quarter of the deliveries in 2007.

In 2008, the Eastern and Central AI POP fisheries for the BSAI trawl limited access sector opened on February 26. The directed fishery for Eastern AI POP for the BSAI trawl limited access sector was closed on March 19 and the fishery was put on bycatch status. The directed fishery reopened on April 18 and was placed on bycatch status again on April 29. The directed fishery for Central AI POP for the BSAI trawl limited access sector was closed on May 8 and the fishery was put on bycatch status. For the data provided thus far in 2008 (through June 2008), the mothership sector received about one-third of the POP deliveries. The remaining CV harvest in Areas 541 and 542 has been delivered to shoreside processors or stationary floating processors.

For the Atka mackerel harvest reports provided through June 2008, the mothership sector has received the majority of Atka mackerel deliveries, and very little relative CV harvest in Areas 541 and 542 has been delivered to shoreside processors or stationary floating processors. NMFS opened directed fishing for Atka mackerel in the Eastern AI/Bering Sea for the BSAI trawl limited access sector from March 18 through March 20. The Central AI Atka mackerel fishery for the BSAI trawl limited access sector opened on January 20 and went on bycatch status on April 15. The B season for both areas is scheduled to open on September 1.

Table 12 also provides a separate column for the number of Amendment 80 CPs receiving catcher vessel deliveries of Atka mackerel and POP harvested in Areas 541 and 542. **Note that there are only two eligible Amendment 80 catcher processors that operated as motherships during 2003 – 2008.** One of the Amendment 80 CPs received catcher vessel deliveries of Atka mackerel and Pacific ocean perch in 2007 and 2008, and the other received catcher vessel deliveries of both species only in 2008. Thus, the only year during the qualifying period in which any catch was delivered to an Amendment 80 CP is 2007. Due to confidentiality restrictions, the amount of harvest they received cannot be provided for any individual year or a series of years. Thus, a quantitative analysis of the proposed sideboard options cannot be provided. As the options only include 2005 through 2007, there is only one CP with data for which to evaluate the proposed options. However, even if the options encompassed 2008, data for only two entities still could not be provided.

While the data to evaluate the proposed options cannot be provided, some information about the proposed processing limits is intuitive. Because there were no deliveries to Amendment 80 CPs from these areas in 2005 and 2006, the sideboard would be based only on 2007. Because there is only one year (within the three-year qualifying period) in which an Amendment 80 CP received catcher vessel deliveries of POP and Atka mackerel, Option 1 would result in a processing sideboard for each species that is three times greater than the sideboard resulting from Option 2. This is because Option 1 is based on the highest annual amount delivered within the range of qualifying years (2005 – 2007), and Option 2 is based on the average amount over the three-year period. Averaging in 2005 and 2006, in which no deliveries were

reported, substantially reduces the resulting sideboard under Option 2. This is true whether the sideboard is established in aggregate for Atka mackerel and POP or separately for each species.

Table 12 Total catcher vessel harvest of Atka mackerel and Pacific ocean perch from Areas 541 and 542, by processing sector and year, 2006 - June 2008

Year	Processing sector	# processors	# Am. 80 CPs acting as motherships	Species	# vessels	Metric tons
2003	Mothership	2	0	Atka M	13	conf.
	Shoreside + floaters	6	na	Atka M	40	**
2004	Mothership	2	0	Atka M	3	conf.
	Shoreside + floaters	5	na	Atka M	21	**
2005	Mothership	1	0	Atka M	2	conf.
	Shoreside + floaters	5	na	Atka M	16	**
2006	Mothership	3	0	Atka M	11	10
	Shoreside + floaters	3	na	Atka M	15	22
2007	Mothership	4	1	Atka M	6	1,033
	Shoreside + floaters	6	na	Atka M	34	6
2008	Mothership	4	2	Atka M	25	140
	Shoreside + floaters	5	na	Atka M	26	3
2003	Mothership	2	0	POP	13	conf.
	Shoreside + floaters	7	na	POP	47	**
2004	Mothership	1	0	POP	2	conf.
	Shoreside + floaters	4	na	POP	18	**
2005	Mothership	1	0	POP	2	conf.
	Shoreside + floaters	2	na	POP	14	conf.
2006	Mothership	3	0	POP	10	**
	Shoreside + floaters	2	na	POP	15	conf.
2007	Mothership	3	1	POP	5	107
	Shoreside + floaters	6	na	POP	37	305
2008	Mothership	4	2	POP	25	156
	Shoreside + floaters	5	na	POP	27	283

Source: NMFS catch accounting database. Total catch (retained and discarded); 2008 data is through June. Excludes CDQ harvest.

Note: "# vessels" shows the number of unique vessels delivering each species to each processing sector.

Note: Shoreside and stationary floating processors are combined for the purposes of this table, in order to avoid confidentiality concerns. A maximum of two stationary floating processors reported for either species during any one year.

Conf. = confidential data. ** = data masked to prevent revealing confidential data by simple subtraction, using Table 4.

na = not applicable.

Relatively little Atka mackerel and POP were harvested by trawl catcher vessels in Areas 541 and 542 in recent years. Even if the data are confidential, the tables show that *some* CV harvest was delivered to Amendment 80 CPs in 2007. Thus, it is clear that Option 1, in which the sideboard is established at the highest amount delivered to Amendment 80 CPs, is likely to result in a relatively high sideboard.

Note that if a sideboard was established that limited vessel deliveries to Amendment 80 CPs, catcher vessels could continue to deliver to non-Amendment 80 motherships, stationary floating processors, or shoreside processors without regulatory limits. During 2003 – 2008, one AFA CP operating as a mothership has consistently received deliveries of both AI species, as well as one or two other (non-Amendment 80, non-AFA) motherships. As stated previously, one to two stationary floating processors have also received deliveries of both Atka mackerel and POP from the AI, albeit small amounts, on a relatively consistent basis during this time period.

Summary

A sideboard is typically established to limit a sector's harvesting or processing activity to its historical share, given that excess harvesting and/or processing capacity is likely, due to the sector's participation in a rationalization program. The intent is to prevent the rationalized sector from expanding its share in other fisheries due to this excess capacity, and eroding the shares of other non-rationalized participants. This paper was intended to provide sufficient information for the Council to determine whether it wants to initiate a formal analysis of processing sideboards for POP and Atka mackerel in the AI. The concern is that the lack of sideboards on processing of the BSAI trawl limited access sector allocations of POP and Atka mackerel by Amendment 80 vessels 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 Amendment 80 CPs 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. In addition, to the extent that this action would slow the harvest of the AI trawl limited access allocations, it could benefit smaller trawl vessels.

Note that if a sideboard was established that limited deliveries to Amendment 80 CPs, catcher vessels could continue to deliver to non-Amendment 80 motherships, stationary floating processors, or shoreside processors without regulatory limits. Ultimately, however, the proposed action serves to limit the markets available to trawl catcher vessels harvesting Atka mackerel and POP in the Eastern and Central Aleutians. Thus, while the trawl limited access allocations were intended to provide additional opportunities for harvest by smaller trawl vessels, this action may serve to reduce the operational flexibility of and negotiating leverage for AI catcher vessels, which could potentially lead to a lower price for their catch.

A limited amount of data can be provided, due to confidentiality issues. There is only one year (two, if 2008 is included) in which the Amendment 80 sector has history operating in this capacity (receiving deliveries of Atka mackerel and POP in Areas 541 and 542), and only one vessel (two, if 2008 is included) operating in this manner. Due to the limited number of vessels, the data necessary to evaluate the proposed options are confidential.

In addition, 2008 is the first year in which the Amendment 80 program has been effective, making it difficult to speculate as to the scope of the potential concern in the future. If this is a viable, profitable fishery, one would expect deliveries to CPs to continue. This is also the first year in which the BSAI trawl limited access allocations for these species are available. The POP allocation is scheduled to step up from 5 percent to 10 percent next year, and the Atka mackerel allocation is scheduled to step up by 2 percent annually for five years. According to the proposed rule, these allocations were intended to provide additional opportunities for harvest by smaller trawl vessels, understanding that many of those would be operating out of Adak. The allocations were intended to increase slightly each year to provide the BSAI trawl limited access sector time to scale operations up to the level of the allocation. At this time, there is limited history of a shorebased fishery for these species, so it has yet to be established whether such fisheries are economical.

The Council is not necessarily restricted from establishing a processing sideboard even if the harvest data necessary to evaluate the proposed options are confidential. One option would be to create a different method for establishing the sideboard, other than catch history. Harvest sideboards have been adopted for each rationalization program since the AFA, yet only the AFA adopted processing sideboards. In the past, the Council has established sideboards based on harvest or processing history in the specific sector being constrained. Meaning, there is no precedent other than harvest or processing history on which sideboards have been based. However, the Council or the public may have alternative ideas on how to establish a sideboard other than the historical amount that has been delivered to the Amendment 80 sector.

Alternatively, the Council could consider a sideboard of 0%, if the Council determines that even *some* catch delivered to Amendment 80 CPs does not meet the intent of the BSAI trawl limited access allocations. Essentially, such a sideboard would equate to a prohibition on Amendment 80 CPs from receiving catcher vessel deliveries of Atka mackerel and POP harvested in the Eastern and Central Aleutian Islands. This is similar to what was initially in the proposed rule for Amendment 80, and then modified in the final rule. The Council could also determine that the action is not warranted (effectively, a sideboard of 100%).

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

Another approach would be to use Amendment 80 fleet-wide annual or weekly processing data for each species to calculate a reasonable estimate of the amount of processing for the one or two CPs based on the number of weeks they have operated as motherships in the Aleutians. The analyst would thus provide as much information about the sector and fishery as possible without violating confidentiality rules. The result of this calculation could either: 1) represent an *option* to establish the actual sideboard selected by the Council, or 2) be used as a reasonable *estimate* in the analysis for the amount of the sideboard when it is calculated based on actual history under the existing options (i.e., the exact sideboard amount would not be known until it is published in the proposed and final rules).

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

Appendix 1. 2008 and 2009 harvest specifications for Atka mackerel and Pacific ocean perch

TABLE 4.—2008 AND 2009 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector ¹	Season ^{2,3}	2008 Allocation by area			2009 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
TAC	n/a	19,500	24,300	16,900	15,300	19,000	13,200
CDQ reserve	Total	2,087	2,600	1,808	1,637	2,033	1,412
	HLA ⁴	n/a	1,560	1,085	n/a	1,220	847
ICA	Total	1,400	10	10	1,400	10	10
	Jig ⁵	80	0	0	61	0	0
BSAI trawl limited access	Total	319	434	0	488	678	0
	A	159	217	0	244	339	0
	HLA ⁴	n/a	130	0	n/a	203	0
	B	159	217	0	244	339	0
	HLA ⁴	n/a	130	0	n/a	203	0
Amendment 80 sectors	Total	15,615	21,256	15,082	12,202	16,957	11,778
	A	7,807	10,628	7,541	6,101	8,479	5,889
	HLA ⁴	4,684	6,377	4,525	3,660	5,087	3,533
	B	7,807	10,628	7,541	6,101	8,479	5,889
	HLA ⁴	4,684	6,377	4,525	3,660	5,087	3,533
Amendment 80 limited access	Total	8,232	12,809	9,298	n/a	n/a	n/a
	A	4,116	6,405	4,649	n/a	n/a	n/a
	HLA ⁴	n/a	3,843	2,789	n/a	n/a	n/a
	B	4,116	6,405	4,649	n/a	n/a	n/a
	HLA ⁴	n/a	3,843	2,789	n/a	n/a	n/a
Amendment 80 cooperatives	Total	7,383	8,447	5,784	n/a	n/a	n/a
	A	3,812	4,224	2,892	n/a	n/a	n/a
	HLA ⁴	n/a	2,534	1,735	n/a	n/a	n/a
	B	3,692	4,224	2,892	n/a	n/a	n/a

TABLE 4.—2008 AND 2009 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector ¹	Season ^{2,3}	2008 Allocation by area			2009 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
	HLA ⁴	n/a	2,534	1,735	n/a	n/a	n/a

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

² Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery. The A season is January 1 (January 20 for trawl gear) to April 15, and the B season is September 1 to November 1.

³ The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

⁴ Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2008 and 2009, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

⁵ Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

TABLE 7.—2008 AND 2009 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch						Flathead sole	Rock sole	Yellowfin sole	
	Eastern Aleutian District		Central Aleutian District		Western Aleutian District		BSAI	BSAI	BSAI	
	2008	2009	2008	2009	2008	2009	2008 and 2009	2008 and 2009	2008	2009
TAC	4,900	4,810	4,990	4,900	7,610	7,490	50,000	75,000	225,000	205,000
CDQ	524	515	534	524	814	801	5,350	8,025	24,075	21,935
ICA	100	100	10	10	10	10	4,500	5,000	2,000	2,000
BSAI trawl limited access	214	420	222	437	136	134	0	0	44,512	37,368
Amendment 80	4,062	3,776	4,224	3,929	6,650	6,545	40,150	61,975	154,413	143,697
Amendment 80 limited access ¹	2,154	0	2,240	0	3,526	0	4,392	14,972	61,431	0
Amendment 80 co-operatives ¹	1,908	0	1,984	0	3,124	0	35,758	47,003	92,982	0

¹ The 2009 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, 2008.