

**Skipper and Crew Discussion Paper
Gulf of Alaska Rationalization
North Pacific Fishery Management Council
April 2006**

In developing the program options for the rationalization of the Gulf of Alaska groundfish fisheries, the Council has developed provisions intended to provide stability to skipper and crew interests in the rationalized fishery. Currently, the Council motion provides options for:

- 1) the initial allocation of a portion of the long term harvest share (or catch history) pool to skippers and crew for exclusive use by qualified skippers and crew (applies to Alternative 2 only), and
- 2) development of a skipper and crew license program, under which harvest shares would be required to be harvested by licensed of skippers and crew.

The current motion provides that further development of skipper and crew provisions would be deferred as a trailing amendment, to be completed in a timely manner for implementation simultaneously with the main program.

At its February 2006 meeting, the Council directed staff to draft a discussion paper examining the structure and effects of skipper/crew provisions that:

- a. allocate a certain amount of quota to qualified skipper/crew;
- b. requires that qualified skipper/crew be on board during the harvest of a percentage of a vessel's allocation; and
- c. provide that, upon transfer of quota share/history, a percentage of the quota and/or transfer price is reserved for crew/skippers.

This paper is intended to respond to the Council's request. The paper attempts to outline various structures and elements that could be used to establish and define the different skipper and crew provisions. The discussion also discusses potential effects of the provisions, which are highly dependent on the specific structure and elements selected.

Problem Statement

To guide the identification of a rationalization program for the Gulf of Alaska groundfish fisheries, the Council has developed the following purpose and need statement:

The Council is proposing a new management regime that rationalizes groundfish fisheries in the Gulf of Alaska west of 140 degrees longitude and rockfish bycatch east of 140 degrees longitude. A rationalization program includes policies and management measures that may increase the economic efficiency of GOA groundfish fisheries by providing economic incentives to reduce excessive capital investment. These management measures would apply to those species, or groups of species identified by the Council as benefitting from additional economic incentives that may be provided by rationalization. This rationalization program would not modify the hook-and-line halibut and sablefish fisheries currently prosecuted under the IFQ Program, except for management of associated groundfish bycatch.

The purpose of the proposed action is to create a management program that improves conservation, reduces bycatch, and broadly distributes the benefits of rationalization to harvesters, processors and fishery-dependent coastal communities. A rationalization program could allow harvesters and processors to manage their operations in a more economically efficient manner. Rationalization of GOA fisheries should eliminate the derby-style race for fish by allocating privileges and providing economic incentives to consolidate operations and improve operational efficiencies of remaining operators. Because rationalization programs can have significant impacts on fishing dependent communities, this program should address community impacts and seek to provide economic stability or create economic opportunity in fishery dependent communities.

Rationalizing GOA fisheries may improve stock conservation by creating incentives to eliminate wasteful fishing practices, improve management practices, and provide mechanisms to control and reduce bycatch and gear conflicts. Rationalization programs may also reduce the incentive to fish during unsafe conditions.

Management of GOA groundfish has grown increasingly complicated due to impositions of measures to protect Steller sea lions, increased participation by fishermen displaced from other fisheries such as Alaska salmon fisheries and the requirements to reduce bycatch and address Essential Fish Habitat requirements under the Magnuson-Stevens Act (MSA). These changes in the fisheries are frustrating management of the resource, raising attendant conservation concerns. These events are also having significant, and at times, severe adverse social and economic impacts on harvesters, processors, crew, and communities dependent on GOA fisheries. Some of the attendant problems include:

- 1. reduced economic viability of the harvesters, processors, and GOA communities*
- 2. high bycatch,*
- 3. decreased safety,*
- 4. reduced product value and utilization,*
- 5. jeopardy to community stability and their historic reliance on groundfish fishing and processing,*
- 6. limited ability of the fishery harvesters and processors to respond to changes in the ecosystem*
- 7. limited ability to adapt to MSA requirements to minimize bycatch and protect habitat,*
- 8. limited ability to adapt to changes to other applicable law (i.e., Endangered Species Act).*

All of these factors have made achieving the goals of the National Standards in the MSA difficult and encourage reevaluation of the status quo management of the GOA groundfish fisheries. The management tools in the current GOA groundfish FMP do not provide managers with the ability to improve the economic efficiency of the fishery and effectively solve the excess harvesting capacity and resource allocation problems in the GOA groundfish fisheries. The Council has determined that some form of rationalization program is warranted.

Since the purpose and need statement is intended to define Council objectives for the rationalization program as a whole, the rationale for the development and inclusion of skipper and crew provisions in the program may not be apparent. The statement makes a single reference to crew, citing the “significant, and at times, severe adverse social and economic impacts on

harvesters, processors, crew, and communities depending on GOA fisheries” that have resulted from changes in the fisheries, including Steller sea lion protections and increased participation. The statement goes on to broadly provide that managers do not have the ability to improve economic efficiency or reduce excess harvesting capacity and resource allocation problems.

Although improving economic efficiency and reducing capacity will have implications for skippers and crew, the statement does little to define the specific crew concerns that should be addressed by the development of skipper and crew provisions. Several objectives could be served by the various measures that could be developed in the skipper and crew provisions. For example, one objective could be to provide existing skippers and crew with a stake in the Gulf fisheries to ensure that crew who lose positions as a result of consolidation receive some compensation on departure from the fishery. An alternative objective could be to ensure that crew employment remains at its current level. Possible objectives for skipper and crew provisions that could be identified by the Council include:

- 1) maintain current skipper and crew employment levels;
- 2) establish skipper and crew share holdings;
- 3) compensate skippers and crew that lose employment as a result of consolidation;
- 4) maintain current level of negotiating leverage for future skippers and crew; and
- 5) ensure current (or experienced) skippers and crew receive priority in future employment in the fisheries; and
- 6) ensure a portion of the quota pool is held by active skippers and crew.

In addition to these objectives, other objectives could be developed as the Council deems appropriate. **In developing objectives for skipper and crew provisions, the Council should carefully compare those objectives with its general program objectives to ensure consistency.** Once decided, these objectives could be incorporated into the overall purpose and need statement to establish an overarching statement of program objectives.¹

Preliminary Discussion of Skipper and Crew Provisions

This section provides a preliminary discussion of the three skipper and crew provisions identified by the Council (skipper and crew quota allocations, skipper and crew licenses, and assessments on the first transfer of quota for the benefit of skipper and crew). Beyond the usual complications that arise in assessing impacts of Council actions, three complications arise in providing any analysis of these provisions at this stage in the development of the rationalization program. First, as noted above, the Council has not fully identified its objective in developing these provisions. Further clarification of the Council’s objectives should help focus the analysis on salient issues, as well as assist the Council in further development of the provisions (and the program as a whole). Second, the provisions have little definition currently. Since the specific terms of the provisions often determine the effects (and may advance or hinder desired effects), any analysis at this stage is conditional on the development of the specific elements that define the provisions. Third, the provisions are part of the larger Gulf rationalization program. The interaction of the

¹ Since certain of the skipper and crew objectives (such as maintain current employment levels) could be inconsistent with other objectives of the program (such as remove excess capacity), making a single purpose and need statement (which includes both objectives for the overall program and objectives for the skipper and crew provisions) could help ensure consistency of objectives in the purpose and need statement. Alternatively, a separate purpose and need statement could be adopted, but would need to be coordinated with the overarching purpose and need statement to ensure consistency.

provisions with the larger program will likely impact their effects. For example, a license system intended to provide negotiating leverage to crew is likely to be ineffective, if licenses are liberally granted and consolidation is unlimited. If licensed crew greatly exceed the number necessary to operate vessels remaining in the fleet, licenses are unlikely to provide any negotiating leverage to crew able to secure the remaining positions.

Given the uncertainty of impacts at this stage, the Council could use this paper for a few different purposes. First, as noted above, the paper could be used by the Council to develop its objectives with respect to skipper and crew under the rationalization program. Second, consistent with its identified objectives, the Council could use this paper to determine whether to fully develop all three of the different provisions. If a provision does not serve the Council's identified objectives, the Council could choose not to develop that provision. Thirdly, the Council could use this paper to more fully identify provisions that it wishes to advance for analysis. Once the Council has identified its objectives for skippers and crew, this discussion paper could be used to develop skipper and crew provisions to meet those objectives. In addition, the overall motion defining alternatives could be reviewed to ensure its consistency with any revision to the purpose and need statement made at this meeting.

Current Skipper and Crew Provisions

The Council motion currently includes the following two skipper and crew provisions:

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Option 1. No skipper and/or crew provisions

Option 2. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

- i. Vessel owners receiving initial QS or harvest privileges; or*
- ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).*

Suboption 1. include crew in the license program.

Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

Option 3. (Applies to Alternative 2 only) Allocate to skippers and/or crew

Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew

Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew

Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew

Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

Option 1 would provide no specific skipper or crew provisions. The choice of no options for skipper and crew could be selected, if the Council believes that skipper and crew interests are adequately addressed in the overall program. The Council might take such a position, in the unlikely circumstance that its only objective with respect to skippers and crew is that no jobs be lost from the fishery. In that case, limits on the amount of fish that could be harvested on a vessel might ensure that no fleet consolidation occurs and no loss of jobs occurs.² If maintaining the quality of skipper and crew jobs is of concern, however, the Council might need to incorporate further protections into the program. In general, it is possible that some skipper and crew objectives could be adequately addressed through measures not specifically directed to skipper and crew needs, but whether that circumstance arises will need to be determined after objectives are fully identified and the specific elements of the rationalization alternatives are better defined. Retaining the no skipper and crew provisions option (Option 1), at this time could provide contrast to the analysis to aid in the understanding of the impacts of the skipper and crew provisions under consideration by the Council.

Option 2 could be used to establish a license program for skippers and crew. Under such a program, all or a portion of each harvest allocation would be required to be fished by licensed skippers and/or crew. A licensing program could be used to protect interests of long term skippers and crew, who would receive licenses based on historic participation. A limited number of licenses could effectively provide negotiating leverage to person's receiving licenses. The effects of a license requirement are very difficult to predict and depend greatly on the provisions defining the overall program, as well as the specific provisions that define the system of licenses. A licensing program is likely to be effective, only if the number of licensed skippers and crew are constraining. For example, in a fishery with 100 licensed skippers and 50 active vessels, a license holder is likely to derive little negotiating leverage from the license when negotiating a share agreement.

Option 3 provides for an initial allocation of shares to eligible skippers and/or crew. The effects of such an allocation depend on the terms of the share allocation. If resale is unrestricted, the only effect of the allocation would be compensating eligible skippers and crew. Restrictions on transfer and use would affect the distribution of benefits from the shares, both reducing their value at the outset and their price on transfer. Restrictions, however, would limit the benefits to persons that meet the qualifications to hold the shares.

Both Option 2 and Option 3 could be adapted to serve several objectives depending on the Council's purpose(s) for establishing skipper and crew provisions. In addition, other provisions within the broader program could be modified or selected to protect identified skipper and crew interests.

² Such a policy could result in a decline in pay or quality of jobs.

Allocation of Quota to Skippers and Crew

Many different objectives could be served by the allocation of quota to skippers and crew. Most obviously, such an allocation could be used to compensate eligible current skippers and crew for their time in the fishery. Such compensation could be justified on the basis that transition to a rationalized fishery could reduce the skipper and crew employment or affect the terms of share agreements. If constraints are imposed on the transfer and use of shares, other effects of the allocation are likely to arise. In addition, the value of the allocation as compensation is likely to be reduced as those constraints are likely to reduce the value of the shares. Share allocations to skippers and crew could also be used to ensure that persons working on vessels maintain a share holding in the fisheries. Imposing limits on the transfer of these shares (such as requiring active participation to hold the shares or requiring share holders to be on the vessel fishing the shares) could have this effect.³ Although these holdings would not necessarily compensate future share holders, the limitation could provide share holders with some leverage for negotiation of crew share agreements, if the skipper/crew holdings represent a marketable quantity of fish.

This section focuses on several aspects of skipper and crew share allocations and the effects of decisions with respect to those aspects. The discussion focuses on both the potential compensation arising from the allocation of shares, and the potential operational impacts that could arise, including those that arise from terms that govern the use and transfer of shares. The section concludes with a list of possible provisions that the Council could consider developing, if it wishes to include a skipper and crew allocation in this rationalization program.

The Council must first determine whether skipper and crew allocations will be sector specific (i.e., trawl, pot, longline, catcher vessel, catcher processor). Making the allocations sector specific is likely needed to scale the allocations appropriately to the fishing activity.

The Council must also determine which species (i.e., primary, secondary, and/or halibut PSC) should be allocated to skippers and crew. Allocation of all species may have some appeal since it is possible that secondary species or halibut PSC may be constraining and/or of the greatest value.⁴ The allocation of primary species, secondary species, and halibut PSC, however, could complicate use of the shares, particularly if leasing is limited or share holders are required to be on the vessel fishing the shares. In a multispecies fishery, if one species allocation is constraining, other species allocations may be unfishable. If shares cannot be transferred, a holder may be left with stranded shares. While it is possible that vessel owners or cooperative members holding shares in the general share pool could help overcome these shortfalls, the value of skipper and crew shares could be diminished. On the other hand, if skipper and crew allocations do not include necessary allocations of secondary species and halibut PSC, the value of the primary species allocation could be diminished, if incidental catch species are constraining. The complexity of fishing multispecies allocations complicates even the choice of species to include in a skipper and crew allocation.

³ The rationale for applying these restrictions only to shares initially allocated to skippers and crew is unclear. Since constrained shares are likely to trade for a lower price, applying the constraints to the initial allocations of skippers and crew only has the effect of reducing the value of the initial allocations of only this segment of the fishery.

⁴ The importance of choices of species allocations varies across gear types. Particularly, since the pot sector currently has little regulated bycatch, the allocation of secondary species and halibut PSC are unnecessary. As a result, the discussion of secondary species and halibut PSC allocations does not apply to the pot sector.

Compensation of skippers and crew will also depend on the magnitude of the allocation (i.e., the percentage of the pool allocated to skippers and crew), with a larger portion of the pool increasing the compensation. The determination of the portion of the pool to be allocated to skippers and crew is largely a political question concerning fairness of the allocations to the various interests in the fishery. Some commentators argue that capital investment should be controlling, suggesting that minimal (or even no) share allocation to skippers and crew is justified. Other commentators acknowledge that the transition to a rationalized fishery is likely to affect labor demands in the fishery. A share allocation to skipper and crew to compensate for job losses and loss of negotiating leverage could be justified by this market restructuring.

The criteria on which allocations are based will in large part determine the distribution of any compensation from the allocation. Distributing the allocation broadly through liberal eligibility criteria and considering history from several years could be favored as a means to benefit the greatest number of skipper and crew. A broad distribution, however, could substantially reduce the value of any individual allocation effectively leaving a recipient with little or no meaningful compensation. If only a small portion of the pool is allocated to skippers and crew, a relatively broad allocation could also result in many allocations being too small to be usable by the recipient. A broad distribution could also reward persons with minimal history reducing the benefits to longer term participants with higher dependence on the fisheries.

The allocation of shares to skippers could be determined based on participation, catch histories, or other criteria. Participation and catch histories of skippers can be verified through CFEC permits and fish tickets. Whether other forms of verification should be accepted would be at the discretion of the Council.

With respect to crew, use of participation and catch histories for making allocations would be less precise and more difficult to verify. Affidavits could be used as the primary source of information with other sources (such as tax records and settlement sheets) used for verification as needed. Since catch history records may be less verifiable, a system of equal share distributions might be likely to cause less controversy and simplify administration. A system under which allocations are strictly proportional to catch histories could be complicated with appeals concerning catch history verification. If the Council wished to differentiate allocations, it could tier allocations, categorizing crew by general levels of participation, with all crew in a category receiving equivalent allocations. For example, participants with two years of history could receive one size allocation, while crew with three years of history would receive another. Categorizing participation in this manner could greatly simplify implementation of a crew allocation and substantially reduce the need for appeals.

Constraints on share use and limits on transfers could also be considered to ensure shares remain in the hands of persons fishing on vessels. In general, shares subject to leasing limitations and “owner on board” requirements will trade at lower prices than shares free from those qualifications. Similarly, limiting the class of persons eligible to acquire the shares (i.e., allowing only active participants to purchase shares) will also reduce the value of the shares to the extent that the class of eligible persons is constraining. Also, as noted above, in a multispecies program, simple constraints on use and transfer could substantially reduce the value of shares to their holders. For example, “owner on board” requirements could limit a participant’s ability to use an entire multispecies allocation, if one species allocation is constraining.

If including owner on board requirements or leasing limitations on shares, the Council should also consider including a provision to accommodate hardships. Hardships could either be accommodated through provisions that provide an exemption from share conditions on proof of a hardship or by limiting the application of the requirement or limitation (i.e., requiring owner on board in 3 of 5 most recent years). Provisions with limited application of the requirement or limitation can be used to avoid disputes and reduce administration costs.

Skipper and Crew Allocation Program Elements

If the Council elects to include skipper and crew allocations in the rationalization program, several elements will need to be considered and selected to define the terms of the allocation. The following provisions could be considered for inclusion in this aspect of the program:

- Shares to be allocated (species, gear, and portion of total pool)
- Division of allocation between skippers and crew
- Eligibility for an initial allocation (may differ for skippers and crew)
- Criteria for allocation of shares (may differ for skippers and crew)
- Use requirements (such as owner on board)
- Eligibility to receive by transfer (such as defined active participation)
- Provisions governing leases (including provisions to address hardships)

Skipper and Crew License Program

Requiring licensed skippers and crew to harvest all (or a portion) of the allocated harvest shares in the fishery could limit competition in the labor market and provide negotiating leverage to licensed skippers and crew. A licensing program could protect interests of long term skippers and crew, who would receive licenses based on historic participation, by increasing demand for their employment. A licensing program is likely to be effective, only if the number of licensed skippers and crew are constraining. For example, in a fishery with 100 licensed skippers and 50 active vessels, a license holder is likely to derive little negotiating leverage from the license when negotiating a share agreement. The specific protection of a licensing program depends on the terms of the rationalization program (including the specific terms of the licensing program) and the conditions in the fishery after the rationalization program is implemented.

The current provision would grant a skipper license to (a) any vessel owner receiving an initial allocation and (b) any skipper that demonstrates participation with a CFEC permit and landings in three of the five years from 1999 to 2003, inclusive. Issuing licenses to skippers with the requisite history could be used to protect their historic interests in the fishery after transition to rationalized management. The rationale for licensing vessel owners receiving an initial allocation is not clear. Such a provision could entice a retired skipper that owns a vessel, who is dissatisfied with share negotiations, to reenter the fishery as a skipper. In addition to licenses initially issued, licenses could be granted in the future to skippers after demonstrated participation. The specific requirements for granting licenses in the future are not specified.

The provision concerning crew licenses provides for the inclusion of crew in the program without specifying the terms that would govern crew licenses. Provisions will need to be defined for determining the allocation of licenses and the requirements for using licenses to harvest shares. Since the crew provisions contain little definition, the majority of this discussion focuses on skipper licensing. Issues specific to a crew licensing program are discussed throughout.

Whether a licensing program can effectively provide labor market protection to current or future skippers and crew is not clear and may differ over time and across gear types.⁵ In general licenses will provide market protection to the extent that demand for licensed skippers and crew exceeds the number of licensed skippers and crew. Both factors will be highly dependent on specific rationalization program elements (including elements of the licensing program) and conditions in the fisheries. As a result, both factors are difficult to predict and may change over time.

The number of licensed skippers and crew will depend both on the terms of the licensing program and fishing practices. The current skipper provision does not specify any threshold landings amount, but only a requirement of participation in at least 3 of 5 identified years. Consistent skipper participation across the five-year period, together with some rotation of skippers on each vessel, could result in substantially more licensed skippers than historic participating vessels. On the other hand, if many skippers left the fishery during this time period, while many others entered, it is possible that fewer skipper licenses would be issued than the number of historic fishing vessels. The dynamics of entry and exit of skippers and participation patterns of skippers during the identified period will determine the number of licenses issued.

In the long run, the provisions governing the licensing of new skippers (qualified after implementation) will also affect the pool of licensed skippers. Since fleet size and characteristics could change after implementation of the program, the criteria for allocating licenses prior to implementation may need to differ from the criteria after implementation. For example, if skippers in the current fleet fish in several different fisheries (including fisheries outside of the Gulf) a higher eligibility threshold may be desirable to issue licenses only to the core group of skippers that are most dependent on the Gulf. If the fleet contracts substantially, and this core group of skippers dominates the market, it may be desirable to apply a more lenient threshold for qualification to ensure that an adequate pool of licensed skippers are available to compete for existing jobs.

The interaction between the license qualification requirements and the requirement for catch by licensed skippers could also affect the pool of eligible skippers. At the extreme, a requirement that all shares be fished by licensed skippers would prevent any entry, ultimately leading to no qualified skippers. On the other hand, a requirement that a small percentage of shares be fished by licensed skippers could provide a relatively easy avenue for entry (and little protection to licensed skippers).

While most of the issues concerning skipper allocations also apply to the allocation of crew licenses, crew licensing could be substantially more complex and less predictable than skipper licensing. Reasonable estimates of the number of eligible skippers can be generated using fish ticket data. Estimates of the number of crew licenses that would be issued will be much less reliable for several reasons. No sources comparable to fish ticket data are available for estimating crew eligibility. The poor availability of verifiable sources of crew participation will raise uncertainty in analytical estimates of eligible crew and could affect the standards applied in reviewing applications under the program. Application review standards are likely to be less rigorously applied, if application information is difficult or costly to verify or refute. The potential for eligible crew to apply for a license cannot be predicted. On the whole, crew are

⁵ As drafted the current provision does not distinguish licenses across gear types. If a universal license is granted for all gear types, the protection of skippers by the license is reduced.

likely to be more transient than skippers, as crew entry requires less training and time investment. If license eligibility criteria are lenient, it is possible that a number of eligible crew that have moved on from the fisheries will not apply for a license. This uncertainty concerning the potential number of crew licenses complicates the ability of the Council to define licensing program criteria that reach a desirable balance between the number of crew licenses and the demand for licensed crew, particularly at the outset of the program.⁶

Demand for licensed skippers and crew after implementation of the program will depend on several factors. The specific requirements for share holders to employ licensed skippers and crew will have the most direct effect on demand for licensed skippers and crew. In general, the smaller the share of the catch that is required to be made by licensed skippers, the lower the demand for licensed skippers. The particular terms of the requirement, however, could also affect demand. For example, demand for licensed skippers is likely to be lower under a requirement that a cooperative harvest a specific portion of its total allocation (in tons) with licensed skippers, when compared to a requirement that a licensed skipper harvest a specific portion of the annual catch on each vessel (or a portion of each share holders allocation). Applying the requirement at the cooperative level could allow a cooperative to stack all of its catch by licensed skippers on a few vessels, substantially reducing the number of licensed skippers that the cooperative would need to hire from a requirement applied at the vessel level. On the other hand, applying the requirements at the cooperative level could simplify administration by shifting a portion of that burden to the cooperative.

Since several crew are employed on each vessel, crew licensing requirements have an added, complicating dimension; the requirement could be to have either a single licensed crewmember aboard when shares are harvested or a requirement that a specific percentage of or all crew be licensed. Alternatively, a requirement could be to have more than a specific percentage of employed crew carry licenses on a tonnage basis. Under such a requirement, a vessel would need to track its crew at each landing, with each crewmember credited with the tonnage of the landing. At the end of the season, the vessel would need to have at least a certain percentage of its total tonnage by crew credited to licensed crew.⁷ In any case, tracking compliance of crew license requirements is likely to be costly and complex. Shifting a portion of the tracking burden to vessel owners or cooperatives through establishing a publicly reviewable reporting system could substantially reduce this administrative burden. Whether such a reporting system could be established under the existing confidentiality rules would need to be explored.

⁶ The interaction between requirements for the use of licensed crew and entry of crew to the license program is also complicated. As with skippers, a high threshold for use of licensed crew could limit the ability of crew to enter the license program. The additional complication of the requirement for licensed crew is that vessels employ multiple crew. Specifying the requirement for the use of licensed crew will need to accommodate the employment of multiple crew.

⁷ As a specific example, consider a rule requiring at least 50 percent of all tonnage by licensed crew. Also consider a vessel that employs three crewmembers at all times and makes two landings in a season. The first landing is 20 tons, while the second is 10 tons. If the first landing is made with 2 licensed crew, the vessel would be credited with 40 licensed crew tons (2 licensed crew times 20 tons) and 60 total crew tons (3 total crew times 20 tons). The second landing would include 30 total crew tons (3 total crew times 10 tons), so the vessel would have a total of 90 crew tons for the season. Since the vessel already has 40 licensed crew tons from its first landing, it would need to employ at least one licensed crew for its second landing to meet the 50 percent licensed crew ton requirement for the season (i.e., half of its 90 crew tons, or 45 licensed crew tons, for the season).

Beyond the obvious statement that more rigid requirements will increase demand for licensed crew, the implications of choosing between these requirements are unclear and could vary across fleets, participants, and time. A vessel owner with a long term stable crew may have little difficulty complying with the most extreme standard. Retirement of one or more of those crewmembers, however, could make compliance difficult or costly. Fleet consolidation can be expected to have a great impact on demand for licensed skippers and crew. Fleet consolidation, in turn, will be affected by many factors. Efficiency choices of cooperatives are likely to drive many fleet consolidation decisions. These choices could be constrained by caps on individual and cooperative share holdings and vessel use caps. The specific cooperative structure, any leasing limitations, regionalization of landings, processor protections, and provisions determining the allocations across sectors and share trading between sectors will also affect the degree of consolidation in the various fleets. Conditions in the fisheries (e.g., stock abundance, TAC levels, catch rates, market demands) can also be expected to impact the demand for licensed skippers and crew. These factors make the level of fleet consolidation very difficult to predict.⁸

In developing a licensing program, the Council should also consider skipper and crew entry. The program should be fashioned to accommodate reasonable turnover, balancing the number of retiring license holders with the number of entering license holders. In addition, the Council should consider the implications of creating a tiered labor market. In the current fisheries, experienced skippers and crew may receive added compensation, based in part on their experience and proven skills. A licensing system can be expected to affect compensation decisions for both licensed and unlicensed skippers and crew by regulating the use of both those who are licensed and those who are not licensed. In setting licensing criteria, the Council should consider the implications for both of these segments of the labor market.

The objective of a license program is likely to provide skippers and crew with reasonable negotiating in the labor market. Establishing a skipper and crew license system that strikes a reasonable balance of supply (through license eligibility criteria) and demand (through license harvest requirements) is likely to be very challenging, particularly in the first years of the program, when uncertainty concerning supply of and demand for licensed skippers and crew are the greatest. In the long run, the Council could revise the program to calibrate supply and demand, with more certainty concerning effects.

Skipper and Crew License System Elements

If the Council elects to include skipper and crew license system in the rationalization program, several elements will need to be considered and selected to define the terms of the allocation. The following provisions could be considered for inclusion in this aspect of the program:

- Sectors subject to the license system (gear and vessel type)
- License eligibility on implementation (may differ for skippers and crew)
- License eligibility after implementation (may differ for skippers and crew)
- Terms of licensed catch requirements
 - Species (primary and/or secondary)
 - Percent of catch subject to requirement
 - Level of application (cooperative, share holder, vessel)

⁸ Fleet consolidation could also be affected by the license program itself. If few skipper licenses are allocated, it is possible that the availability of licensed skippers could constrain fleet size.

Tax on First Transfer for the Benefit of Skippers and Crew

The third provision the Council asked staff to discuss in this paper would reserve a portion of the first transfer of any shares (or the purchase price from the first transfer of any shares) for distribution to eligible skippers and crew. Although not stated, the rationale for taxing the first transfer of shares could be based on an assumption that the transfer will both consolidate fishing, removing skippers and crew from the fishery, and will result in the capture of a portion of the resource rents by the seller of the shares. Under these assumptions, extracting a portion of the resource rents from the transaction to compensate skippers and crew that lose employment from the consolidation could be justified. Waiting for the first transaction might be justified by the assumption that up until that point, the share holder is employing a skipper and crew to harvest shares.⁹

If the rationale is that described above, several issues arise. Under either cooperative or IFQ management, a transfer may not be necessary for consolidation to occur. So, skipper and crew job losses can occur regardless of whether an identifiable transfer has occurred. In addition, several other forms of skipper and crew losses can occur without job loss. Most importantly, any detrimental change in terms and conditions of employment would not be addressed by this provision, if the share holder elected not to transfer the shares. Given the gaps in protection of the tax on transfer, the Council should verify consistency with its intent for establishing skipper and crew protections prior to advancing provisions that impose taxes on first transfers.

Administrative issues that arise with a tax on first transfers also raise concerns. Share holders clearly will benefit through developing ownership structures that minimize circumstances that would qualify as transfers. For example, depending on administration of the provision, it is possible that some changes in corporate ownership might not be defined as a transfer when a similar effective change in ownership under a non-corporate structure would be defined as a transfer. This disparity in treatment of share holders could be perceived as unfair. Alternatively, the cost of tracking ownership information to avoid these disparities could be substantial. In general, the Council should assess whether the administrative costs of tracking changes in ownership and transfers are commensurate with the benefits of the tax on first transfer provision.

If the Council elects to impose a financial tax on first transfers, determination of the tax could be complicated. Some transfers are monetary purchases, but others are gifts or involve in-kind exchanges. Determining the monetary value of the transfer could be complicated in some cases. Taxing the transaction by collecting a portion of the shares transferred would simplify the determination of the tax, but could also affect the benefits. If the shares received through the tax are subdivided and passed on to several different skippers and crew, the value of the benefits to any one recipient are likely to be very small. Alternatively, a management entity could be created to manage the shares for the benefit of skippers and crew, but such an entity would also add administrative costs and complexity, and requires substantial oversight.

The benefits of the program will depend, in part, on the disbursement of shares or revenues collected through the tax. Provisions defining this disbursement will need to be developed to

⁹ A primary rationale for the allocation of shares cost free on implementation of rationalization programs is the need to ensure that capital investments of fishery participants are not undermined by transition to the share-based management. A provision taxing the first transfer of shares might appeal to some observers as a means delaying the imposition of costs of the transfer of shares to skippers and crew until the share recipient has realized the full benefits of the initial allocation.

assess the effects of the provision. In developing the distribution, the Council should consider its intent for establishing the provision. If the intent is simply to protect persons directly affected by the transfer, the tax could be redistributed to persons harvesting the transferred shares in the most recent years prior to the transfer. If the intent is to benefit a more general group of skippers and crew, criteria for redistribution would need to be developed to identify those beneficiaries. The nexus between the source of the revenues and the recipients of the benefits becomes more questionable, if the program is intended to protect remaining and/or recent skippers and crew. Some of the current or recent skippers and crew may have suffered no loss, while others may have lost jobs. A tax on first transfer provision, however, is unlikely to be a good tool for providing benefits to historic skippers and crew, since first transfers could occur several years after program implementation (and possibly after several of the current skippers and crew have left the fishery).

Tax-on-First-Transfer Program Elements

If the Council elects to include a tax on first share transfer provision to benefit skipper and crew, several elements will need to be considered and selected to define the terms of the provision. The following provisions could be considered for inclusion in this aspect of the program:

Shares subject to the tax (species and gear)

Transfers subject to the tax

- Transfers of long term history or shares

- Leases prior to the first transfer of long term history or shares

- Definition of transfer (i.e., changes in corporate structure or change in named holder, etc.)

Nature of the tax (tax on revenues from the sale or portion of shares transferred)

- Determining sale price (for sales without explicit market price)

Distribution of benefits

- Identification of skippers and crew to benefit from a tax (historical, current, or specific skippers and crew affected by the transfer)

- Division of benefits between skippers and crew

Restrictions (if any) on the use of shares received