

Council Motion on Crab Rationalization

December 4, 2002

The Council adopted the following motion concerning rationalization of the BSAI crab fisheries at its December 2002 meeting:

Captain QS:

The following is the preferred alternative for captain QS (C shares):

1.8.1 Options for captain and crews members:

1.8.1.2 Percentage to Captain:

1. Initial allocation of 3% shall be awarded to qualified captains as C shares.
 - a. Allocation from QS pool

1.8.1.3 Species specific:

1. As with vessels.

1.8.1.4 Eligibility:

Option 1

1. A qualified captain is determined on a fishery by fishery basis by
 - 1) having at least one landing in 3 of the qualifying years used by the vessels and
 - 2) having recent participation in the fishery as defined by at least one landing per season in the fishery in two of the last three seasons prior to June 10, 2002.

Suboption: For recency in the Adak red king, Pribilof, St. Matthew, and bairdi fisheries a qualified captain must have at least one landing per season in the opilio, BBRKC, or AI brown crab fisheries in two of the last three seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).

2. A captain is defined as the individual named on the Commercial Fishery Entry Permit.

For captains who died from fishing related incidents, recency requirements shall be waived and the allocation shall be made to the estate of that captain. All ownership, use, and transfer requirements would apply to C shares awarded to the estate.

1.8.1.5 Qualification period:

1. As with vessels.

1.8.1.6 Distribution per captain:

1. C QS based on landings (personal catch history based on ADF&G fish tickets) using harvest share calculation rule.

Regionalization and Class A/B Designation

- Option 2: C shares shall be a separate class of shares not subject to the Class A share delivery requirements during the first three years. But, at the end of three years, C shares shall be subject to A/B designations with regionalization unless the Council determines (after review) not to impose these designation.

Initial Allocation Regionalization

If C shares are regionalized, at the initial allocation regional designations shall be made based on the captain's history, with an adjustment to the allocation to match the PQS regional ratio made based on the same scheme used for regional adjustment of harvest shares.

1.8.1.7 Transferability criteria:

1. Purchase of C QS.
 - a. C QS may be purchased only by persons who are
 - Option 1. US citizens who have had at least 150 days of sea time in any of the US commercial fisheries in a harvesting capacity and
 - Option 2. active participants

An "active participant" is defined by participation as captain or crew in at least one delivery in a crab fishery included in the rationalization program in the last 365 days as evidenced by ADF&G fish ticket, affidavit from the vessel owner, or evidence from other verifiable sources.

2. C share leasing
 - a. C QS are leasable for the first three seasons a fishery is prosecuted after program implementation.
 - b. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of C shares may lease C QS, upon documentation and approval, (similar to CFEC medical transfers) for the term of the hardship/disability for a maximum of 2 years over a 10 year period.

1.8.1.8 Loan program for crab QS

A low-interest rate loan program consistent with MSA provisions, for skipper and crew purchases of QS, shall be established for QS purchases by captains and crew members using 25% of the Crab IFQ fee program funds collected. These funds can be used to purchase A, B, or C shares.

Loan funds shall be accessible by active participants only.

Any A or B shares purchased under the loan program shall be subject to any use and leasing restrictions applicable to C shares (during the period of the loan).

National Marine Fisheries Service (NOAA Fisheries) is directed to explore options for obtaining seed money for the program in the amount of \$250,000 to be available at commencement of the program to leverage additional loan funds.

1.8.1.9 Captain/Crew on Board requirements

- 1) Holders of captain QS or qualified lease recipients are required to be onboard vessel when harvesting IFQ.
- 2) C QS ownership caps for each species are
Option 2. the same as the vessel use caps for each species

C share ownership caps are calculated based on the C QS pool (i.e. section 1.7.4). Initial allocations shall be grandfathered.

- 3) Use caps on IFQs harvested on any given vessel shall not include C shares in the calculation.

1.8.1.10 C/P Captains

Captains with C/P history shall receive C/P C QS at initial issuance. C/P C shares shall carry a harvest and processing privilege.

Option 3. C/P C shares may be harvested and processed on C/Ps or harvested on catcher vessels and delivered to shore based processors.

1.8.1.11 Cooperatives

C share holders shall be eligible to join cooperatives.

C shares shall be included in the IFQ fee program.

Sideboards:

The following is the preferred alternative for sideboards:

Option 1 (a): Non-AFA vessels that qualify for QS in the rationalized opilio crab fisheries would be limited to their GOA groundfish catch history excluding sablefish. The sideboards would be based on the history of vessels subject to the caps, applied in aggregate, on an area specific basis, and apply jointly to both the vessel and the license.

Combine options 2 and 3: Vessels with less than 100,000lbs total opilio history during the qualifying years and more than 500MT of total cod history during the qualifying years would be exempt from the sideboard cap.

Option 4: Vessels with less than 50MT total groundfish landings in the qualifying period would be prohibited from participating in the GOA cod fishery.

Require that crab co-ops limit their members to their aggregate cod catch in both federal and state waters to the sideboarded amount (provided such a limitation is within the Council's authority). Staff is requested to examine how this integrates with the existing coop structure in the preferred alternative and identification of enforcement options available to the coop which will ensure compliance with parallel fishery limitations.

Sideboards will expire on rationalization of the Gulf of Alaska.

Data Collection:

The Council notes its appreciation of the report and hard work by the Crab Data Collection committee and by staff from the Council, NMFS, and ADF&G, and recommends that the Committee to continue its work. In particular, the Council recommends that the Committee be directed to provide recommendations at the February Council meeting on the aggregation of data and its importance in protecting industry

proprietary and confidential information. Recommendations should cover both data analyses that are presented to the Council and the public, and industry raw data that is provided to staff for purposes of analysis. The Committee should review Section 8 of Appendix 3-7, prepared by staff and presented to the public at this meeting, and provide recommendations on the issues raised by staff.

The Council recommends:

- both the binding arbitration committee and the data collection committee identify data needs associated with the binding arbitration process and the integration of these needs.
- the Committee consider the SSC recommendations concerning data aggregation.
- the Committee include C shares in the data collection program..

Community Protection:

A cooling off period of 2 years shall be established during which processing quota earned in a community may not be used outside that community. The community protection committee shall consider implementation details.

The following types of alternatives could be considered in the committee, if consistent with the charge to the committee or within the discretion of the chair of the committee:

Under the alternatives with regionalization limitations and/or processor “A” shares:

Creation of a 3rd region, the North Gulf Coast region, defined as the area north of the extension of the existing north/south line eastward across the Alaska Peninsula and the Gulf of Alaska.

Suboption:

- a. Communities that have processed more than 1% of a rationalized crab species in any one of the qualifying years within the 3rd region to receive a direct allocation of processor “A” shares proportionally from regions 1 and 2.
- b. Holders of harvester shares shall be allowed to make one delivery within the 3rd region (last load home) to any community that has processed more than 1% of a rationalized crab species in any of the qualifying years. Crab poundage delivered in region 3 will be apportioned between regions 1 and 2 according to the ratio of “regionalized” shares owned by the harvester.

Additional Sunken Vessel Provision:

The following is an additional provision concerning sunken vessels is incorporated into the preferred alternative:

1.4.1 The following provision would apply to persons whose eligibility to replace their vessel was initially denied under PL 106-554. The sunken vessel must have been replaced with a newly constructed vessel and have been under construction by June 10, 2002, and participated in a Bering Sea crab fishery by October 31, 2002 for a person to receive a benefit under this provision.

For each of the fisheries for which such a vessel holds a valid endorsement , for all seasons between the sinking of the vessel and the entry of the replacement vessel to the fishery within the IRS replacement period (as extended by the IRS, if applicable) allocate QS according to 50 percent of the vessel’s average history for the qualifying years unaffected by the sinking. Construction means the keel has been laid.

CDQ Caps :

The Council shall consider the increase of harvest share ownership and use caps for CDQ groups at its January/February meeting.

Adak Allocation:

The following provision concerning the allocation of a portion of the WAI (Adak) brown king crab fishery to the community of Adak is incorporated into the preferred alternative:

Criteria for Selection of Community Entity to Receive Shares: A non-profit entity representing the community of Adak, with a board of directors elected by the community (residents of Adak) in a manner similar to the CDQ program. As a suboption, the shares given to this entity may be held in trust in the interim by the Aleut Enterprise Corporation and administered by it.

A set of use procedures, investment policies and procedures, auditing procedures, and a city or state oversight mechanism will be developed. Funds collected under the allocation will be placed in a separate trust until the above procedures and a plan for utilizing the funds for fisheries related purposes are fully developed. Funds will be held in trust for a maximum of 2 years, after which the Council will reassess the allocation for further action.

Performance standards for management of the allocation to facilitate oversight of the allocation and assess whether it achieves the goals. Use CDQ type management and oversight to provide assurance that the Council's goals are met. Continued receipt of the allocation will be contingent upon an implementation review conducted by the State of Alaska to ensure that the benefits derived from the allocation accrue to the community and achieve the goals of the fisheries development plan.

2003 Opilio Fishery:

The Council does not intend to consider catch history in the 2003 opilio fishery in any future rationalization program.

Binding Arbitration:

The Council emphasizes the importance of binding arbitration to the rationalization program and the need for the committee to complete its work in time for selection of a preferred alternative at the January/February Council meeting.

Crab EIS:

The following alternatives shall be included in the Crab EIS:

1. A one pie system using same qualifying years, transferability, use and coop provisions as the preferred alternative, integrated with the regionalization, skipper shares and binding arbitration process.
2. A one pie system as above, with the addition of
 - A. A closed class license for processors using qualifying years in the preferred alternative. (Option 2 from October 2002 AP minutes).
 - B. Coop formation with the processor to which the vessel delivered the majority of their crab harvest in the year prior to implementation.
 - C. A 10%, one year penalty provision for movement between coops without the agreement of both coops.
3. Finally, the the current no fishing EIS alternative does not meet the reasonable standard described in NMFS' letter and shall be dropped from the EIS.