

**BSAI Crab Rationalization Program
Trailing Amendments**

**Additional Provisions
Captain's Quota Shares
Sideboards**

December 2002

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ADDITIONAL PROVISIONS

The Council added and revised alternatives for analysis appearing in the Council motion on crab rationalization from April 14, 2002 as supplemented by the Council motion on crab rationalization from June 10, 2002. At its October 2002 meeting the Council added the following elements and option for analysis.

3.2.2.2 Calculation and Basis for Initial Allocation of QS (cont.)

Additional sunken vessel provision

The Council's preferred alternative for rationalization of the BSAI crab fisheries contains a provision that would credit a person for history for a vessel for years that the vessel could not participate because of a sinking. The provision is intended to relieve the hardship of a person that suffered a vessel loss for the period during which the vessel was being replaced. The provision would apply only to those persons that replace their lost vessels under Amendment 10 of the LLP. The provision in the preferred alternative is intentionally narrow, so as to limit the applicability to those persons that have suffered a hardship because of a loss and have taken steps to continue participation in the fishery. After selection of the preferred alternative, public testimony informed the Council that the current provision might be underinclusive and not apply to at least one person that suffered a vessel loss after the Amendment 10 replacement period. To rectify this shortcoming Section 1.4.1 of the Council motion includes the following vessel replacement provision:

(1.4.1) Additional sunken vessel provision

This provision would apply to persons whose eligibility to replace their vessel was initially denied under PL 106-554. The sunk 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 season 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 to 100 percent of the vessel's average history for the qualifying years unaffected by the sinking. Construction means the keel has been laid.

This provision would apply only to persons that lost a vessel who:

- 1) were denied eligibility to replace the vessel under PL 106-554,
- 2) replaced the vessel with a newly constructed vessel that was under construction by June 10, 2002, and
- 3) participated in a Bering Sea crab fishery with the replacement vessel by October 31, 2002.

Under PL 106-554 a license would be eligible to participate in the BSAI crab fisheries, only if the vessel complied with the requirements of the LLP and Amendment 10. By requiring the vessel to comply with the Amendment 10 landing requirement, that statute effectively removed any replacement vessels from the fleet. In at least one instance, this led to a person delaying construction of a replacement vessel until after the statute was modified to permit vessel replacement. PL 106-554 was in effect for less than one year beginning in December of 2000. For replacement of a vessel to have been denied under this provision, the vessel construction would have begun in 2000 or 2001. Determining the number of newly constructed vessels

replacing sunken vessels in 2001 and 2002 provides an estimate of the number of vessels that would qualify for this provision.

The number of vessels that qualify for this option was estimated by determining the number of new constructed vessels that entered a crab fishery in 2000 and 2001 based on ADF&G registration files (Bowers, 2002) and the Council Crab Database (NPFMC Crab Rationalization Database, Version 1, 2001). The original vessel could then be identified using by registration of these replacement vessels for crab fisheries in the NOAA Fisheries, RAM Division LLP license list (NMFS, 2002). Any newly constructed vessel replacing a sunken vessel is assumed to qualify for this provision. A single vessel was identified as a newly constructed vessel entering the crab fisheries in 2000 or 2001 in replacement of a sunken vessel. Since only a single vessel is estimated to qualify for this option, the implications for the allocation must be held confidential.

Community Protection

3.6.2.2 Community Share Purchases

Section 3.4 of the Council motion contains the following alternative concerning the purchase of harvest shares by communities:

- (3.4) Addition:
Alternative 3 Allow for a community organization in those communities that have at least 1% of the initial distribution of processing history of any BSAI crab fishery to be exempted from the restriction for the 150 days of sea time requirement under 1.6 Transferability and Restrictions on Ownership of QS.

Community organization would be defined as:

- (a) CDQ groups for CDQ communities
- (b) non-profit community group (similar to CDQ group structure) for non-CDQ communities
- (c) non-profit community group (similar to group structure under halibut community purchase program) for non-CDQ communities regardless of whether or not they are in a borough.

Ownership and management of harvest and processing shares by CDQ or community group will be subject to rules similar to CDQ regulations.

The Council preferred alternative permits any entity with a 20 percent owner with at least 150 days of sea time to purchase harvester shares. By itself, this provision would preclude community groups and non-profits from purchasing shares since the sea time requirement for an owner would not be satisfied. To address this shortcoming, the Council has proposed waiving the sea time requirement for community and CDQ groups based in communities with at least 1 percent of the initial distribution of processing shares in any BSAI crab fishery.¹ Although this provision would allow the purchase of harvest shares by eligible communities, the protection to communities by this provision is likely to depend on its interaction with other provisions.

The provision allows the purchase of harvest shares by communities based on whether the community has historically participated in processing. Under the preferred alternative, 10 communities would qualify for the waiver of the sea time requirement based on processor allocations of over 1 percent of a fishery. The

¹ No similar participation requirement exists for the purchase of processing shares, so an exemption is unnecessary for the purchase of processing shares.

appropriateness of the processing history requirement might be questioned, since communities that participate in the harvest sector but not the processing sector would be unable to purchase harvest shares. Many communities have processing that shows dependence on the fisheries. This option would allow those communities to expand their interests into the harvest sector. If the Council is concerned that communities with a harvest dependence on the fisheries might be excluded, the provision could be modified to exempt communities with at least 1 percent of the harvest history in a BSAI crab fishery from the sea time requirement.

The provision is unlikely to protect communities with historic processing history from departure of processing from the community. If a substantial share of the fishery is required to be delivered to a processor holding IPQs, ownership of harvest shares might have little effect on whether harvests from those shares are landed in a community. In addition, the provision provides communities with no preferential in the market for harvest shares. Instead they receive the opportunity to participate in that market. Whether communities can effectively participate in the market cannot be predicted. The absence of preferential treatment, however, would not bias the market in favor of public sector, community participants over private sector participants.

This option contains three provisions defining community groups eligible to purchase harvest shares. For CDQ communities, CDQ groups would be eligible to purchase shares. In non-CDQ communities, non-profit community groups would be eligible to purchase shares. These groups are alternatively defined as either groups with structures “similar to CDQ group structure” or groups with structure “similar to group structure under halibut community purchase program”. Oversight and monitoring of harvest and processing share holdings would be subject to regulations similar to CDQ regulation. Discussion of CDQ communities is separated from the discussion of other communities for clarity.

Since the ownership and management of harvest and processing shares would be subject to the CDQ type regulations, this option raises the issue of whether only the identified groups will be permitted to purchase processing shares, as the Council motion adopting a preferred alternative is silent on that issue. Limiting the community organizations eligible to purchase processing shares could be important to ensuring that the benefits of those shares are realized by the community.

CDQ Community Purchases

Allowing CDQ groups to act on behalf of communities would simplify the development of corporate entities to act on behalf of those communities. In addition, the current CDQ management and oversight regulations should be adequate to ensure that the benefits of purchased harvest shares are responsibly held and managed. A more complete description of those requirements appears in Section 3.9.1. The only potential shortcoming of this option is that the interests represented by a CDQ group are likely broader than the communities on which eligibility is based (i.e., most CDQ groups represent communities that have processing history of at least 1 percent of a BSAI crab fishery). If the Council intends for the benefits to flow only to those communities with a minimum processing history, an additional management obligation could be placed on any CDQ group that purchases harvest shares under the provision. It should also be noted that CDQ groups could have a significant advantage over share purchasing entities in non-CDQ communities that might not have the institutional knowledge, reputation, or wherewithal to participate effectively in these markets.

Non-CDQ Community Purchases

Several issues arise with respect to purchases of harvest shares by non-CDQ communities. Two provisions could define the structure of community groups eligible to purchase shares. The first would allow groups structured similar to CDQ groups to purchase shares. The second would allow groups structured similar to community groups permitted to purchase halibut and sablefish QS to purchase shares.

A few differences between these two alternative structures are worth mentioning. First, since CDQ groups are permitted to be “for profit” or “non-profit,” permitting CDQ structure would not be completely consistent with the non-profit requirement. In addition, a CDQ group must be a local fishermen’s or economic development organization that: 1) represents an eligible community or communities; 2) is incorporated under State or Federal law, and 3) has a Board of Directors composed of at least 75 percent resident fishermen of the community. In addition, each member community must have at least one board member. CDQ groups are also required to develop goals and community development plans, which detail the management of assets by the group. Groups often hire outside consultants to assist in plan development. Whether these stringent requirements should be necessary for the purchase of QS could be questioned.

The halibut and sablefish community QS purchase program permits one or more communities to form a new, non-profit corporation to purchase QS for those fisheries. At the extreme, a region-based entity could be formed that would act as trustee for all communities in an area. Only one non-profit entity can be qualified to represent each individual eligible community. Under that program, the first entity certified to represent a community would be designated as the sole entity permitted to purchase shares on behalf of the community. To be eligible to purchase shares, an entity would need to submit: (1) a certificate of incorporation (2) verification of its qualification (3) documentation demonstrating accountability to the community and (4) an explanation of how the community entity intends to implement performance standards for management of its shares. Similar rules could be used to establish eligibility for a community group to purchase shares in the crab fisheries.

One issue that arises under any option is the designation of a community for purposes of developing an entity to purchase shares. Some communities are in organized boroughs. The Council should clarify the level of community that it intends to be eligible to form a non-profit corporation for share purchases. Under the MSA, communities are defined as a place, such as a city, village, or town. Counties and boroughs would not be considered communities. This interpretation, which was used for defining eligible communities for the halibut and sablefish community QS purchase program, could also be applied in this case to define communities that are eligible to develop entities for purchase of harvest shares.

The provision that would establish the management and oversight regime for community entities purchasing shares would require CDQ type regulation of the ownership and management of the shares held by any group. In the halibut and sablefish community QS program a less stringent oversight and management program was adopted by the Council. The community purchase rules under this program require less detail than the CDQ community development plans.² CDQ requirements could be cost prohibitive to new non-profit community groups interested in purchasing interests in fisheries. The Council might consider whether community groups purchasing shares in non-CDQ communities should be governed by the less stringent rules established under the community QS purchase program. Under those rules, the group would be required to (1) submit an annual report and (2) meet performance standards. The annual report include (1) a summary of business, employment, and fishing activities under the program, (2) a discussion of any corporate changes that alter the representational structure of the entity, (3) specific steps taken to meet the performance standards, and (4) discussion of known impacts to resources in the area. The performance standards would require the group to (1) maximize benefit from use of community IFQ for crew members that are community residents, (2) ensure that benefits are equitably distributed throughout the community (3) ensure that QS/IFQ allocated to an eligible community would not be held and unfished. Communities purchasing shares would be subject to performance standards, with voluntary compliance monitored through the annual reporting mechanism and evaluated when the program is reviewed. These less stringent measures might be more appropriate for non-CDQ community groups purchasing shares.

² Community development plans must include descriptions of projects; community development information; business information; project schedules; employment, vocational, and educational programs; a description of existing infrastructure; a description of capital uses; and a description of short and long term benefits.

3.6.2.3 First Right of Refusal

To allow communities to protect themselves from the economic consequences of the departure of processing activity from a community, Section 3.4 of the Council motion includes the following community first right of refusal option:

(3.4) Right of First Refusal (revised alternative)

Option 2. Allow local government entities or CDQ groups representing communities with at least 1% of the processing history of any BSAI crab fishery except for those communities that receive a direct allocation of any crab species, to be provided the option of first right of refusal to purchase processing quota shares which are being proposed to be transferred for processing outside the boundaries of the community of original processing history.

1. CDQ groups for CDQ communities
2. Local government entity means boroughs and cities or villages outside boroughs for non-CDQ communities.
3. Local government entity means cities or villages for non CDQ communities.

Time frame for responses

1. 30 days
2. 90 days
3. 180 days

This option will be analyzed after consideration by the Community Protection Committee.

3.6.2.4 Cooling Off Period

One of the objectives of rationalization is to reduce overcapacity in both the harvesting and processing sectors. The reduction in capital will require that some facilities be removed from operation. Some people are concerned that this consolidation could result in the transfer of activity away from some communities with adverse effects on those communities. Section 3.4 of the Council motion includes the following provision would limit the transfer of shares from communities for a period of time after implementation:

(3.4) Cooling off period

Processing quota earned in a community may not be used outside that community for a period of 2, 3, or 5 years after implementation of the rationalization program.

Suboption: allow transfer of the greater of 10% of IPQ holdings or 100,000, 250,000, or 500,000 lbs by fishery (based on 10% ownership standards, similar to AFA)

This option does not apply to PQ for the Western Aleutian Island Brown KC, Bairdi, and Adak Red Crab.

Alone, this provision is unlikely to fully protect communities from the reorganization of processing activity under rationalization. The provision, however, will mitigate any drastic redistribution of activities that could occur in the first years of the program, if consolidation is not spatially constrained. Rapid consolidation could be dampened by the provision by allowing the market for shares time to develop. Participants are likely to adapt expectations concerning those markets, if trading can be observed for a period of time prior to more open trading. The WAI (Adak) golden king crab, the WAI (Adak) red king crab, and the Bering Sea *C. bairdi* fisheries are all proposed for exception from the restriction on transfers. The WAI (Adak) red king crab and the BS *C. bairdi* have been closed in recent years. The lack of recent history in those fisheries could justify their exemption from the provision, since recent community dependence could not exist. The preferred alternative also contains a requirement that 50 percent of the WAI (Adak) golden king crab fishery be landed west of 179°W longitude. Since this regionalization is not based on historical landings, exempting this fishery from any restriction on transferring processing activity from the community where the history was based may be necessary. Table 3.6-4 shows that approximately 92 percent of processing during the qualifying years was in Dutch Harbor. Since Dutch Harbor is east of 179°W longitude, at least 42 percent of all allocated processing shares will be designated for processing outside of the community of origin. The disconnect between the regional designation and historical dependence could justify the exclusion of this fishery from the transfer restriction.

The suboption would permit the an IPQ holder to transfer up to the greater of a specified poundage or percent of the IPQ holder's total holdings from a community. An IPQ holder's holdings would be identified using a 10 percent common ownership standard, similar to the standard used for determining processing shareholding caps. Permitting transfers of small amounts of shares might be important to the coordination of harvesting and processing activity in a system of harvest and processing shares. The provision would permit an IPQ holder to transfer the greater of 10 percent of IPQ holdings or 100,000, 250,000, or 500,000 pounds. For the largest shareholders, 10 percent of holdings would be as much as 1.5 to 2.5 percent of each fishery. Even if all IPQ holders in a community transferred up to the limit, 90 percent of the allocation of those IPQ holders would remain in the community.

CDQ and Community Allocations

3.9.1 Adak Allocation

The Council included the following option requesting additional analysis of the Adak allocation in Section 4 of the Council motion:

(4.0) Adak allocation clarification

Goals of Allocation: The 10% community allocation of Golden King Crab was developed to provide the community of Adak with a sustainable allocation of crab to aid in the development of seafood harvesting and processing activities within that community. Adak is a community that has similar attributes to the communities that have already been awarded community development quotas (CDQ). It is a very small second class city with a year-round population of over 110 residents, with commercial fishing as the only source of private sector income. As a Bering Sea community, the transportation alternatives are highly constrained without road, ferry, limited air service, or barge service. While the community government is supported by modest local taxes and municipal assistance a critical source of revenue is the revenue sharing from the Alaska commercial fisheries business tax. Adak does not qualify as a CDQ community because of the reasons described in the Council staffing document, and the Council's allocation to Adak is to serve a similar end. The Council believes that there are no other similarly situated communities in the Western Aleutian Islands that are not already CDQ communities.

Criteria for Selection of Community Entity to Receive Shares:

1. A non-profit organization will be formed under Aleut Enterprise Corporation with a board of directors selected from the enterprise foundation's board.
2. 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 sub option, the shares given to this entity may be held in trust in the interim by the Aleut Enterprise Corporation and administered by it.

For both options 1 and 2 above, 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 trust for 2 years until the above procedures and a plan for utilizing the funds are fully developed.

Performance standard 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.

Adak Crab Allocation

The Council's preferred alternative in June 2002 specified the following:

For the WAI golden king crab fishery, the percentage of resource not utilized (difference between the actual catch and GHL) during the base period is allocated to the community of Adak. In any year that sufficient processing exists at that location, the percentage of the difference between the GHL and actual catch that was not harvested in these 4 years is not to exceed 10%.

The Council revisited the above provision of the June motion on the crab rationalization program in October, and requested clarification of and additional information regarding the goals of the Adak allocation, the selection of a community entity to receive the quota shares, and the management and oversight mechanisms necessary to evaluate whether the goals of the allocation are being met. The Council adopted two options for analysis regarding the selection of a community entity to receive the quota shares and general language describing the broad concept proposed for management and government oversight.

The two decision points for the Council include determining: 1) the entity to receive and manage the Adak community allocation, and 2) the type of government oversight that should apply. The purpose of this paper is to provide the requested analysis to support a Council decision on these issues.

Goals of the Allocation

The 10% Adak community allocation of golden king crab would be intended to provide the community of Adak with a sustainable allocation of crab to aid in the development of local seafood harvesting and processing activities. Thus, the goal of the allocation would be to provide Adak with a means for sustainable participation in fisheries harvesting and processing within the community. As such, the allocation would represent a policy decision by the Council to provide a direct allocation to a community which is currently building its fisheries economy to support redevelopment and population growth. Building on the concept of community development quotas, a community fishing quota,³ such as the proposed allocation to Adak, can potentially be used to direct the flow of economic and social benefits from a fishery to a coastal community.

The rationale for supporting Adak through a direct allocation is premised on Adak's exclusion from the CDQ Program and the contention that there are no other similarly situated communities in the western Aleutian Islands that are not part of the CDQ Program.⁴ The Council's allocation to Adak is intended to serve a similar purpose as the CDQ Program, which provides CDQ eligible communities the means for participating in, starting or supporting commercial fisheries business activities to strengthen the local economy.⁵ The CDQ Program was developed to allow western Alaska coastal communities to participate in marine fisheries "in their backyard," which had previously been foreclosed to them because of the large amount of capital investment needed to enter the fishery. The crab allocation to Adak is proposed for similar reasons, as the Aleutian Islands golden king crab fishery is located in close proximity to Adak Island and requires substantial capital investment.⁶ Thus, the rationale exists that Adak is similar to the eligible CDQ communities in many respects and may warrant a comparable allocation to enter into and sustain participation in the golden king crab fishery. The unique circumstances that likely resulted in the exclusion of Adak from the CDQ Program are discussed in the following section, as are the attributes that currently make Adak different from the CDQ eligible communities. These differences, along with the mechanism proposed to distribute quota to Adak, may influence the selection of a community entity to receive the shares and the oversight and monitoring aspects of this proposal. These are discussed later in this paper.

³See section on community fishing quotas, Sharing the Fish, 1999, p. 128.

⁴Note that there are some other non-CDQ Aleutian Islands communities that were also Aleut villages prior to their use as military sites during World War II, such as Attu, Shemya, and Amchitka, and which continue to have an active military presence. Thus, one could envision a similar scenario for these villages in the future should they transition to civilian communities. There are also other communities, such as villages on Unalaska Island, that were Aleut communities prior to World War II and were not repopulated following the war.

⁵Note, however, that Adak's economy is very different from the CDQ communities in that the CDQ communities have historically had high unemployment rates and low median incomes compared to the rest of the State of Alaska. While Adak does not have a similar historical range and is currently building its economy, the economic structure of Adak is very different from the CDQ communities. See the Draft Crab EIS (2002) Adak community profile for details.

⁶One of the factors that distinguishes the Aleutian Islands golden king crab fishery from other fisheries in the crab rationalization program is that participants contend it is far less efficient than other crab fisheries. Because of the lower CPUEs, participants attempt to overcome the inefficiencies by using more pots than are used in other fisheries. Entry into the fishery is more costly because of equipment requirements and the fishery is primarily fished by relatively larger vessels than the Bering Sea crab fisheries. (Bering Sea Crab Rationalization Program Alternatives, NPFMC, May 2002).

Background

This section provides a general, condensed background on the community of Adak, specific to the purpose of this paper. For further details and a complete community profile, please see the Draft Crab Environmental Impact Statement (Draft Crab EIS, December 2002). This work is referenced several times in this paper and is currently being completed for the crab rationalization project.

Adak Island was heavily populated by the Aleut people at the beginning of the historical era, but was eventually abandoned in the early 1800s as the Aleut hunters followed the Russian fur trade eastward and famine set in on the Andreanof Island group. Subsistence activities continued on and around the island, however, until World War II. The military was engaged in activity on Adak Island during World War II, and a Naval Air Station was developed there after the war. Military operations on the island likely prevented Adak from being certified as a Native village under the Alaska Native Claims Settlement Act (1971), one of the qualifying criteria for community eligibility in the CDQ Program.

The Naval Air Station on Adak was officially closed on March 31, 1997. Since 1913, the island itself has been a Federal wildlife refuge, and was included within the Alaska Maritime National Wildlife Refuge established by Congress in the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. Adak Island remains part of that refuge today, and thus, the lands withdrawn for military purposes during World War II will revert back to Department of Interior (DOI) ownership and U.S. Fish and Wildlife Service (USFWS) management. This is a multi-step endeavor under the base closure and realignment process. Early in the closure process, the Aleut Corporation, the Alaska Native regional corporation of the Aleutian/Pribilof region, expressed interest in exchanging some of its real property interests elsewhere in the Aleutian Islands for property at Adak. Given that the DOI sought opportunities to enhance the wildlife refuge, it was agreed that upon receipt of its previously withdrawn lands on Adak Island, the DOI would convey a portion of the northern half of Adak to the Aleut Corporation, in exchange for more valuable wildlife habitat owned by the corporation in the eastern Aleutians. Thus, while a portion of the island will remain under U.S. Fish and Wildlife Service management, the land exchange will eventually result in approximately 47,000 acres of the northern portion of Adak being transferred to the Aleut Corporation.⁷ From this, some lands in and around the community will be subsequently transferred to the City of Adak.⁸ Today, however, this portion of the island remains the property of the DOI and continues under military withdrawal status and as such is not directly managed by the USFWS.

A land transfer agreement was recently concluded between the DOI and the U.S. Navy/Department of Defense, passed through Congress, and is awaiting Presidential signature. Because Adak is within the wildlife refuge, special Congressional legislation is necessary to convey Adak property to the Aleut Corporation.⁹ This is expected to be completed sometime in the next year. While the final land transfer is not yet complete, an estimated 30 families, mostly Aleut Corporation shareholders, have since relocated to Adak (September 1998) to establish a non-military community.

The current population demographics of Adak continue to differ from the CDQ communities in the region. The 2000 census reported that about 35% of the population of Adak is comprised of Native Alaskans, compared to greater than 78% in the existing CDQ communities. While not a program intended only to

⁷Not all lands that were controlled by the military on the northern portion of the island will pass into Aleut Corporation (or other private) ownership. A significant portion of land on the southeastern edge of the former military controlled area will be retained as Federal land. This area has high wildlife value and is contiguous with the USFWS retained southern portion of the island.

⁸The community incorporated as a Second Class City in April 2001.

⁹Source: Statement of H.T. Johnson, Asst. Secretary of the Navy, before the Subcommittee on Public Lands and Forests of the Senate Committee on Energy and Natural Resources, May 9, 2002.

benefit the Native population within eligible communities, all of the CDQ groups have a significant population of Alaska Natives and three of the six groups have resident Native populations of greater than 90%. While the Adak population does not have a Native majority, the community is very much an Aleut community by virtue of the driving role of the Aleut Corporation (the regional Native corporation) in its foundation and development and the predominant role of Aleut individuals in local governmental positions (Draft Crab EIS 2002). As stated previously, Adak did not become certified as a Native village under the Alaska Native Claims Settlement Act due to the fact that it was essentially a non-Native community at the time of the passage of the Act.

The level of existing infrastructure in Adak also sets Adak apart from the eligible CDQ communities.¹⁰ Many of the CDQ communities, prior to their participation in the program, had very limited fisheries-related infrastructure present in the community. The community of Adak has had a shore-side processing plant in the community since only late February 1999, which is currently operating as Adak Fisheries LLC. Other processing operations took place sporadically in Adak during the time it was a military base, although they are not well-documented (Draft Crab EIS 2002). The Aleut Corporation will receive most of the Naval facilities, including a fuel port and crew transfer facilities, three deep water docks, airport, and housing units, in the final land transfer. (In addition to housing and fishing-related infrastructure, the military also constructed several recreational facilities, including a movie theater, roller skating rink, swimming pools, ski lodge, bowling alleys, skeet range, auto hobby shop, photo lab, racquetball and tennis courts. A new hospital was built in 1990.) While the level of existing infrastructure alone in no way denotes that the community of Adak has substantial harvesting or processing capability absent the proposed crab allocation, it does contribute to the overall makeup of the community and distinguishes it from the majority of the CDQ communities.

While its military history, demographic makeup, and infrastructure set Adak apart from the CDQ communities, there are some similarities as well. Adak is a very small second class city in the Aleutian Islands, with the 2000 census reporting 316 residents, 200 to 225 of which are considered year-round (Draft Crab EIS 2002). During the peak fishing seasons, additional people come to Adak to work in the processing plant. Adak also has very limited alternative sources of private sector revenue other than fishing, and depends on a combination of local taxes (3% sales tax), a fuel transfer tax (\$0.02/gal), and municipal assistance, in addition to revenue sharing from the Alaska commercial fisheries business tax. Like other communities in the Aleutian Islands, transportation alternatives are constrained to limited air or barge service. In this sense, Adak is very similar to existing CDQ communities located in the Aleutian Islands, such as Atka and Nikolski.

Adak's current effort to transition from a military base to a commercial fishing center, however, is the most distinctive characteristic of the community. As stated previously, Adak has a small resident population, and while the intent is to develop Adak as a commercial center and civilian community with a private sector economy, like most communities in the region with commercial development, Adak's economy is marked by seasonal variation. The summer months mark the 'contractor season,' and the first few months of the year mark the peak local fishing season. About 32,150 acres of the land to be conveyed to the Aleut Corporation has been found environmentally suitable to transfer by the Navy, with the remaining 15,000 acres expected to receive a similar finding by early 2003.¹¹ Because the community of Adak has been focused on its redevelopment plan and the transition process, the majority of total employment in the community has been either directly or indirectly related to this effort. However, while the majority of the employment in the summer continues to be related to contractor activities to cleanup the former military site, the primary

¹⁰Another of the criteria for eligibility in the CDQ Program is that a community must not have previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, unless the community can show that benefits from an approved CDP would be the only way to realize a return from previous investments (50 CFR 679.2).

¹¹Source: Statement of H.T. Johnson, Asst. Secretary of the Navy, before the Subcommittee on Public Lands and Forests of the Senate Committee on Energy and Natural Resources, May 9, 2002.

employment of full-time residents is with the city, the AEC, and small private businesses. (Draft Crab EIS, 2002).

The Federal government and the State of Alaska fully support the redevelopment of the community of Adak. Under the Base Closure Community Assistance Act of 1993 (BRAC), Congress made the following findings:

3) It is in the interest of the United States that the Federal Government facilitate the economic recovery of communities that experience adverse economic circumstances as a result of the closure or realignment of a military installation.

(4) It is in the interest of the United States that the Federal Government assist communities that experience adverse economic circumstances as a result of the closure of military installations by working with such communities to identify and implement means of reutilizing or redeveloping such installations in a beneficial manner or of otherwise revitalizing such communities and the economies of such communities.

(7) The Federal Government may best contribute to such reutilization and redevelopment by making available real and personal property at military installations to be closed to communities affected by such closures on a timely basis, and, if appropriate, at less than fair market value. (Sec. 2901)

The Congressional language implies that economic reuse/redevelopment is the highest priority of BRAC. Further, it is the policy of the Department of Defense (32 CFR Part 175) to help communities negatively affected by base closures to achieve economic recovery in ways based on local market conditions and locally developed reuse plans. To further this purpose, the Department of Defense identifies a Local Redevelopment Authority (LRA) in each base closure community. The LRA is defined as any authority or instrumentality established by state or local government and recognized by the Secretary of Defense, through the Office of Economic Adjustment, as the entity responsible for developing the redevelopment plan with respect to the installation or for directing implementation of the plan. Under 32 CFR Part 175, Revitalizing Base Closure Communities - Base Closure Community Assistance: "The LRA should focus primarily on developing a comprehensive redevelopment plan based upon local needs. The plan should recommend land uses based upon an exploration of feasible reuse alternatives" (Section 175.7).

In most cases, military bases that are being closed have been located within or near established communities, and the affected local governments typically form a local redevelopment authority to plan and implement reuse per the authority administered under BRAC.¹² Adak, however, is located in an unorganized borough and was only incorporated as the City of Adak as recently as 2001. Given these somewhat unique circumstances, the Adak Reuse Corporation (ARC) was organized as a non-profit entity and recognized as the official LRA in Adak subsequent to the military base closure. While the assets of Adak are still under Navy ownership, the ARC holds a transitional Master Lease agreement for the base. In turn, the ARC has sublet portions of the base and assets to the Aleut Enterprise Corporation, a for-profit subsidiary of the Aleut Corporation.

While the ARC is not formally related to the Aleut Corporation, the Board is composed of the commissioner of the Department of Community and Economic Development; two other persons selected by the Governor who serve as heads in State government; and four public members appointed by the Governor, two of whom must be residents of the area that is within the boundaries of the Aleut Corporation (AS 30.17.020). Thus, while ARC was formed specifically for Adak reuse needs, the structure of the Board was an attempt to represent the region and neighboring communities, regional service providers, governments, and fisheries interests, and was not community-based, per se (Draft Crab EIS, 2002). Designation of the ARC as the LRA

¹²Source: Statement of H.T. Johnson, Asst. Secretary of the Navy, before the Subcommittee on Public Lands and Forests of the Senate Committee on Energy and Natural Resources, May 9, 2002.

may be atypical in the sense that most of the guidance governing LRAs states that they should have a broad-based membership, including, but not limited to, representatives from those jurisdictions with zoning authority over the property. Thus, typically the LRA is a local government or commission with broad representation. As noted previously, the Aleut Corporation will control a substantial amount of the northern portion of Adak in the pending land exchange and will own the majority of the buildings located on the northeast half of the island, including the airport, docks, and fuel farm. Thus, Aleut Corporation shareholder representation on the ARC Board is likely both appropriate and necessary to implement the redevelopment plan, as it will be the primary property owner. ARC intends to dissolve upon final transfer of the land to the Aleut Corporation.

At present, management of the community is fairly complex, due to the current transitional phase from a military to a non-military community. While the ARC holds the master lease for the base and its facilities, the airport is the only undertaking in the community run directly by the ARC. As previously stated, the ARC sub-leases some land to the AEC, the main purpose of which is to sell fuel and lease/manage property for other businesses, including the local processor. The AEC has also noted tentative plans to expand fuel services outside of Adak (*The Aleutian Current*, May 2002). The City of Adak itself operates community utilities and some of the existing facilities, although most of the recreational facilities are now closed.

Options for Selection of Community Entity to Receive QS

The Council adopted two options for consideration at the October meeting regarding the entity to which the crab allocation should be made:

Option 1. A non-profit organization to be formed under the Aleut Enterprise Corporation (AEC) with a Board of Directors selected from the AEC's Board.

Option 2. A non-profit organization 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.

Suboption: In the interim, the shares given to the non-profit organization may be held in trust and administered by the Aleut Enterprise Corporation.

For both Options 1 and 2, a set of use procedures, investment policies, auditing procedures, and a city or State oversight mechanism will be developed. Funds collected under the allocation will be placed in trust for two years until the above procedures and a plan for utilizing the funds are fully developed.

The entity selected would be responsible for receiving and managing the crab quota on behalf of the community, as well as determining the entity or entities to which the quota would be leased and fished. Because Adak does not have an established resident fishing fleet (and no locally owned vessels that have a history of fishing crab), it is not expected that the entity would be leasing the quota directly to community residents. While community residents would not be prevented from fishing the quota should the opportunity arise, it is assumed that for the time being the community entity would lease the quota to one or more of the ten to fifteen vessels that typically participate in the golden king crab fishery in the western Aleutian Islands and deliver to the local plant. The harvest could potentially be delivered to the local processor in Adak,¹³ although there is currently no restriction on where the crab may be landed. Regardless of where the crab is delivered, the primary direct benefit to be derived from the community allocation will likely be in the form of crab royalties. This is very similar to the CDQ Program, in that several of the CDQ species are harvested

¹³The Adak processor has changed ownership structure several times since its inception. In 1999/2000, the operation primarily bought and processed cod, with some crab. In 2000/2001, the percentage of crab processed and the overall amount of cod increased. For 2001/2002, the operation increased throughput again, with the primary species processed being Pacific cod, followed by crab, halibut and sablefish. (Draft Crab EIS, December 2002.)

through partnerships with vessels that are not home ported in, or owned by residents of, the member communities. This is not atypical in the policy discourse surrounding community quotas, and not the only example of a community quota in which the community residents may fish the quota themselves, lease it, or get other fishermen to use it on their behalf.¹⁴

Option 1

Option 1 would allocate the golden king crab harvester shares to a new non-profit organization formed under the Aleut Enterprise Corporation, a for-profit subsidiary of the Aleut Corporation, created in 1997 to use the infrastructure and property assets of Adak as a foundation for further economic development in Adak and the surrounding region. The long-term plan of the AEC states that its mission is to optimize returns to the Aleut Corporation from fuel, fisheries, and commercial lease ventures (S. Moller, pers. comm. 9/23/02). The AEC's strategy is to build Adak into a year-round fishing hub, complete with processing facilities, a small boat harbor, and a variety of shore-based services (Aleut Corporation newsletter, May 2002). Thus, the AEC is focusing its redevelopment efforts in Adak but continues to act as the economic development arm on behalf of the entire Aleut Corporation and its shareholders.

Given that the priority of the Department of Defense under BRAC is on economic redevelopment of the community of Adak, this may provide sufficient justification for both allowing a community allocation to Adak and making that allocation to an organization with the primary goal of developing the fisheries harvesting and processing capabilities of the community. Given the more specific fisheries and community development mission relative to that of the parent corporation, the AEC, or a non-profit entity organized under the AEC, may be appropriate to designate as the receiving entity.¹⁵ Pending the final land transfer agreement with the Department of Defense and the Department of the Interior, the Aleut Corporation will have ownership and management control of the majority of facilities that directly and indirectly support fisheries activities. Thus, one may contend that the AEC would be well poised to assume the responsibility of receiving and managing a direct crab allocation for the benefit of the community.

Option 1 requires that the non-profit formed to receive the crab allocation be comprised of a Board of Directors selected from the AEC Board. One of the prime advantages of using an entity formed under an established organization such as the AEC is that it reduces the initial cost of establishing a decision-making structure and board leadership, financial oversight capability, and other administrative services associated with creating a new non-profit organization. These tasks represent an initial financial cost to the community, as well as the time and political will involved, and could likely be reduced by using an existing entity as an umbrella organization. In addition, the AEC is well known in the community and has already established relationships with those in the fishing industry.

The disadvantage of using a subsidiary established under the AEC is related to the same benefits described above. Because the AEC is an established organization under the Aleut Corporation, there may exist the perception that Aleut Corporation shareholders would receive an unfair advantage relative to other community residents in receiving the benefits of the community quota. Considering that the Council's motion is for a "community development allocation," intended to benefit the community of Adak as a whole, it is not necessarily intuitive that the allocation be made to the regional Native corporation, considering that the corporation has a specific mission and direct obligation to an identified group of shareholders.¹⁶ In addition,

¹⁴Sharing the Fish (1999), p.128.

¹⁵The Aleut Corporation's mission is: "To maximize profits, provide benefits to our shareholders, and preserve our culture."

¹⁶The SSC noted, in its review of Amendment 66 (Gulf Community Quota Share Purchase), that in order for the benefits of a community allocation or fishing opportunity to be received by the whole community, it may be necessary for the entity receiving the allocation to be formed for the explicit purpose of managing those fishing resources and an entity that represents the community as a whole and not one segment of the population.

while the AEC is identified primarily with the community of Adak, the parent corporation (Aleut Corporation) also represents shareholders throughout the region and beyond, including areas on the Alaska Peninsula and the Aleutian, Shumagin, and Pribilof Islands.

As mentioned previously, the primary goal of both the AEC and the Aleut Corporation is to maximize profits to the corporation and its shareholders. Thus, there may be a related concern in allowing management of the golden king crab allocation by either entity, in that managing for maximum financial benefit may not represent the maximum benefit to the community overall. The best way to derive community economic benefits from the allocation may not always be in the form of the highest royalty rates, as there may be alternative management decisions which may net a lower royalty rate but provide other real benefits to the community of Adak (i.e., maximizing use of vessels owned or crewed by community residents). Understanding these concerns is key to meeting the goals guiding the proposed action by the Council. Whether the community as a whole benefits from the allocation will be highly dependent upon the ownership entity being representative of the entire community.

Option 2

Option 2 would require the crab allocation to be received by a non-profit organization 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. It is assumed, but not explicit within the option as stated, that the non-profit must be a newly-formed entity, and not an existing entity within the community. This option provides the Council with an alternative that may satisfy some of the major concerns noted above under Option 1. The start-up and administrative costs associated with developing a new organization may reflect the disadvantages of such an option, while longer term benefits may be gained through the ability to structure an entity and Board of Directors that better represent the interests of the community. Option 2 may be appropriate in that it has the potential to create a representation of the community of Adak, and curtail any perception that the allocation only benefits the Aleut Corporation and its shareholders.

Option 2 also states that a Board of Directors must be elected by residents of the community, in a manner similar to the CDQ Program, presumably to ensure a fair mechanism by which to select a decision-making body. While it was proposed at one time, the CDQ groups are not required by regulation to elect their Board of Directors in an at-large election for each member community of the CDQ group. While some of the CDQ groups with more than one member community prefer this method, each of the groups determines its own means of selecting the Board of Directors. For instance, some of the groups hold community elections, while others prefer to designate individual Board members on a community basis. Thus, the Council would want to identify whether the Board of Directors for the entity receiving harvest shares on behalf of Adak would be required to be developed through a community election. While it may provide a fair means by which to select a Board, community election of Board members could also require expenditures for election expenses and may discourage some qualified persons from attempting to serve on the Board.

For purposes of the CDQ Program, a CDQ group must be a local fishermen's or economic development organization that: 1) represents an eligible community or communities; 2) is incorporated under State or Federal law, and 3) has a Board of Directors composed of at least 75 percent resident fishermen of the community. Option 2 currently only requires that the entity holding crab harvest shares be a non-profit organization, it does not specifically require that it be a fishermen's or economic development organization.¹⁷ In addition, while the first two requirements are implicit under Option 2, the Council may want to clarify, if it selects Option 2, whether the third requirement would also apply for the purpose of the Adak allocation.

¹⁷A fishermen's organization, the Adak Native Fishermen's Association, was recently formed and convened its first Board meeting in September 2002. This organization is so new that at the time of the fieldwork for this project, a general membership meeting had not yet occurred.

The practicality of this requirement depends on whether there are a sufficient number of resident fishermen that would choose to take on this role. While it is not possible to predict how many fishermen may move into the community, the community profile on Adak provides a current snapshot of the resident population.¹⁸ Adak has a population of about 316 (2000 census), and currently, the majority of the employment in the community is associated with maintaining the military facilities and providing support to the environmental cleanup operations. There are two vessels based in Adak that are owned by community residents, and, as of 2001, CFEC reports that three residents held four commercial groundfish fishing permits. According to community sources, four or five small vessels participated in local fisheries in 2001. While the local fleet is currently very small, the community is actively promoting the growth of a small boat fleet, and more people who spent at least part of the year in Adak are fishing there ((Draft Crab EIS 2002). The number of current resident fishermen may thus be sufficient to develop a Board of Directors, depending upon individuals' willingness to participate and the assumption that the requirement for resident fishermen on the Board is not specific to crab fishermen. In addition, the Council could consider including a processor representative on the Board. However, given that the community is in a transition phase and may also need varying expertise on the Board to manage the allocation, it may be warranted to consider reducing or eliminating this requirement.

Also provided under Option 2 is a **suboption** that would allow the Aleut Enterprise Corporation to hold and administer the shares in trust until the proposed entity is in place. While this suboption is intended to help ensure that the community will not forego benefits from the community allocation while the non-profit is being developed, this type of safety net is likely unnecessary. It will most likely take at least one year from the time of Council action to develop and implement the regulations for crab rationalization. Thus, there should be sufficient time available to develop an organization such as proposed under Option 2 for the purpose of receiving and managing the Adak community crab allocation.

Lastly, for both Options 1 and 2, it is proposed that:

A set of use procedures, investment policies, auditing procedures, and a city or State oversight mechanism will be developed. Funds collected under the allocation will be placed in trust for two years until the above procedures and a plan for utilizing the funds are fully developed.

It is assumed that the policies noted above will be developed by, or in consultation with, the State of Alaska, should this allocation be approved by the Council and the Secretary. If it is determined that these procedures are integral to meeting the goals of the allocation, it is uncertain whether a time period should be linked to the mechanism to place the funds in trust. The Council may want to consider modifying this statement, such that the meaning changes to require the funds to be placed in trust until use procedures are in place, regardless of how long that may take.

Option for Government Oversight and Allocation Management

Included in the Adak proposal is the option to provide performance standards for management of the allocation, in order to facilitate government oversight and assess whether the action is meeting the stated goal. The following concept has been proposed:

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 the benefits derived from the allocation accrue to the community and achieve the goals of the fisheries development plan.

Implicit throughout the proposed options and stated goals is that the golden king crab allocation to Adak is intended to represent benefits similar to those received under the CDQ Program. Thus, the structure and

¹⁸See Draft Crab Environmental Impact Statement, Adak community profile, December 2002.

implementation proposed has some “CDQ-type” provisions, the range and implications of which can vary greatly. Government oversight in the CDQ Program has two primary elements: 1) requirements to provide information to the government about the activities of the CDQ groups, their affiliated businesses, and vessels and processors participating in the CDQ fisheries, and 2) requirements that certain activities by the CDQ group and their subsidiaries be approved by the State and NMFS before they are undertaken.¹⁹

Understanding that the CDQ Program has substantial reporting requirements and restrictions on the use of the allocations unique to that program, the Council may want to clarify exactly what requirements of the CDQ Program should be applied to Adak upon final action. Some examples will be provided here but it is not the intent of this paper to outline the comprehensive requirements of the CDQ Program. In addition, this section provides an alternative monitoring structure similar to that approved by the Council in April under the halibut and sablefish community quota share purchase program (Gulf Amendment 66).

CDQ Information Reporting Requirements

One of the critical differences between the proposed Adak allocation and the CDQ Program relates to the allocation process and reporting procedures. Allocations of CDQ are made to the CDQ groups, representing one or more communities, on the basis of the groups’ approved Community Development Plans (CDPs). Federal regulations explicitly state that these are harvest privileges that expire upon expiration of a CDP; thus, when a CDP expires, further CDQ allocations are not implied or guaranteed (50 CFR 679.30 (a)). Each proposed CDP includes a list of new and existing projects and a request for quota with which to support those projects. Because the groups typically request more than the available quota, it is a very competitive process in which the groups vie for a limited amount of CDQ. The Adak allocation is different in that it is an allocation to one community, absent any competition from other communities. Thus, the primary reason the crab allocation to Adak would be reduced or terminated, biological reasons notwithstanding, would be due to a determination that the benefits were not accruing to the community and Adak was not sufficiently achieving the goals of its fisheries plan. This absence of competition, combined with not having to apply for the quota on a continual basis, creates a much different environment than that of the CDQ Program.

Should the Council choose to mirror the CDQ Program with respect to reporting requirements, it will need to specify those exact requirements and the frequency in which information must be submitted. The most prominent of the CDQ requirements is the proposed Community Development Plan. The Council’s June 2002 action²⁰ on the administrative and policy elements of the CDQ Program included a provision that would establish a three-year allocation cycle, meaning the CDPs must be submitted every three years. Under the CDQ Program regulations, a CDP must include a community eligibility statement, community development plan, business plan, statement of the applicant’s qualifications, and a description of the managing organization (50 CFR 679.30 (a)). All of this comprises a comprehensive CDP, and as specified, is submitted to the State of Alaska for recommendation to the Secretary of Commerce. In addition, each CDQ group must submit quarterly reports, an annual progress report (including an audited financial statement), annual budget report, annual budget reconciliation report, and any amendments to the approved plan mid-cycle. These reports, in combination with the CDP, encompass the fundamental information requirements in the current CDQ Program.

Related to the competitive nature of the CDQ Program is the need to evaluate the CDPs based on a set of criteria. While the entity representing Adak would not be competing with any other entity for that allocation, there must be criteria by which the plan can be evaluated to determine whether Adak is using the allocation to achieve the purported goals. If, like the CDQ Program, the allocation is intended as a privilege which may

¹⁹From RIR/IRFA for proposed Amendment 71 to the BSAI FMP to implement policy and administrative changes to the Western Alaska CDQ Program, May 15, 2002.

²⁰At the time of this paper, the Council’s June 2002 CDQ action (BSAI FMP Amendment 71) had not yet been submitted to the Secretary of Commerce for review.

be revoked or suspended, there must be standards by which to measure the community's success. The CDQ Program uses the evaluation criteria in State regulations to evaluate the CDPs and determine how well each group is providing benefits to its communities and meeting the milestones identified in its plan. Whether the non-profit organization representing Adak would be held to similar standards is a decision point for the Council. It is also assumed that corresponding regulations would include the opportunity for Adak to comment on and appeal a recommendation to reduce or terminate the golden king crab allocation.

While the current criteria only exist in State regulations, the Council's June 2002 motion consolidated and modified the following criteria for evaluating the CDPs to be placed in Federal regulations:

- (a) Number of participating communities, population, and economic condition.
- (b) A Community Development Plan that contains programs, projects, and milestones which show a well-thought out plan for investments, service programs, infrastructure, and regional or community economic development.
- (c) Past performance of the CDQ group in complying with program requirements and in carrying out its current plan for investments, service programs, infrastructure, and regional or community economic development.
- (d) Past performance of CDQ group governance, including: board training and participation; financial management; and community outreach.
- (e) A reasonable likelihood exists that a for-profit CDQ project will earn a financial return to the CDQ group.
- (f) Training, employment, and education benefits are being provided to residents of the eligible communities.
- (g) In areas of fisheries harvesting and processing, past performance of the CDQ group and proposed fishing plans in promoting conservation based fisheries by taking action that will minimize bycatch, provide for full retention and increased utilization of the fishery resource, and minimize impact to the essential fish habitats.
- (h) Proximity to the resource.
- (i) The extent to which the CDP will develop a sustainable fisheries-based economy.
- (j) For species identified as "incidental catch species" or "prohibited species," CDQ allocations may be related to the recommended target species allocations.

While some of these criteria do not apply to a one community, non-competitive allocation, this list is provided to show what "CDQ-type" management might entail. It would be necessary to develop a set of criteria appropriate for use in evaluating a fisheries development plan provided by the Adak non-profit organization, whether it be similar to what is used currently in the CDQ Program or something different. Under the proposed language, the State of Alaska would conduct the review of the fisheries development plan provided by Adak at a specified interval. For example, mirroring the Council's June 2002 action on the CDQ Program, this would require Adak to submit a fisheries development plan for review and approval every three years.²¹ In this sense, the allocation to Adak would be interpreted similarly to the allocations made in the CDQ Program in that it would represent a privilege which may be revoked or suspended if the managing entity does not succeed in providing benefits to the community and implementing its fisheries development plan. This is intended to instill a level of responsibility in the managing entity to demonstrate its successes and be accountable to the community it represents.

²¹Establishing a foreseeable allocation cycle and enabling the groups to plan ahead for the time, staff, and cost involved in the development of the CDPs is intended to allow the groups more stability in their development and potentially increase the efficiency of their operations. The intent of the three-year allocation is to allow the CDQ groups relative stability and reasonable expectations for the CDP without establishing permanent, or long-term, allocations. The Council noted that a three-year cycle is likely long enough to allow the groups the necessary flexibility in their CDP development, but short enough to keep the groups accountable to the performance standards and milestones identified in their CDPs. Given that the only practical mechanism for the State and NMFS to adjust the allocations is through the allocation process, the Council recommended a three-year cycle in order to retain this level of government oversight.

The Council intended, and recently confirmed through its June 2002 action on the CDQ Program, that the State take primary responsibility for qualifying eligible communities and reviewing and making recommendations on the CDPs. The State was deemed the entity responsible for applying the criteria and procedures and for ensuring that each group meets the steps outlined in the allocation process. The Council is consulted on the State's initial recommendations, and the Secretary holds final approval authority and releases quota to the CDQ groups as appropriate. Under the proposed option for the Adak allocation, the State would take primary responsibility to perform an implementation review to ensure that the benefits are accruing to the community and the fisheries plan is being implemented, similar to the role played by the State in the CDQ Program. It is assumed, however, that the final approval of a fisheries plan based on an allocation of Federal fisheries quota would remain with NMFS.

CDQ Prior Approval Requirements

The other primary element of government oversight of the CDQ Program is the requirement that certain activities by the CDQ group and their subsidiaries be approved by the State and NMFS before they are undertaken (i.e., prior approval). It is through the initial approval of the proposed Community Development Plan and through substantial plan amendment requirements that the State and NMFS exercise the authority to review and approve investments before they are made. Substantial amendments to the CDP require a written request by the CDQ group to the State and NMFS for approval of the amendment. The State must forward the proposed amendment to NMFS with a recommendation as to whether it should be approved or disapproved, and NMFS must notify the State in writing of its decision. The Council's June 2002 motion clarified that government oversight extends to subsidiaries controlled by CDQ groups, and 51% minimum ownership denotes effective management control or controlling interest in a company. The Council may want to consider whether this level of oversight is also appropriate for the non-profit entity receiving the community allocation on behalf of Adak.

The practical implication of imposing this requirement on the community entity representing Adak is that it would require the entity to keep its fisheries development plan up to date and submit any changes after the initial approval of the plan to the State and NMFS. If the entity wanted to substantially amend the plan to make a different investment or engage in a different business activity not covered in the plan, it would have to submit a written request to the State and NMFS for approval. For the purposes of the CDQ Program, a substantial amendment is currently defined as including, but not limited to: any change in the list of communities represented by the CDQ group or replacement of the managing organization; a change in the group's harvesting or processing partner; funding a CDP project in excess of \$100,000 that is not part of an approved general budget; more than a 20% increase in the annual budget of an approved project; more than a 20% increase in actual expenditures over the approved annual budget for administrative services; a change in the contract between the group and its harvesting or processing partner, or a material change in a CDQ project.

In sum, the information and reporting requirements, including the requirement for prior approval, make up the critical elements of government oversight within the CDQ Program. The Council may want to clarify that these elements are what is intended by the proposed option under "CDQ-like management and oversight." There are numerous other requirements comprising the CDQ Program, including the requirement that CDQ Program revenues are restricted to fisheries-related projects and investments. While this requirement was relaxed in the Council's June 2002 motion to allow each CDQ group to invest up to 20% of its previous year's pollock CDQ royalties in non-fisheries related, in-region, economic development projects, the first priority of the program continues to be to strengthen the fisheries-related economies in the region. Similarly, the proposed goal of the community allocation to Adak is: "to provide Adak with a sustainable allocation of crab to aid in the development of local seafood harvesting and processing activities." Thus, while potentially appropriate for Council consideration, the fisheries-related restriction is an example of a different type of requirement unrelated to the reporting and monitoring requirements discussed previously. In sum, it will be necessary to clarify if the fisheries-related restriction, and other

specific provisions of the CDQ Program, are implicit in the proposed allocation to Adak, or whether only the reporting requirements are to be applied.

Halibut/Sablefish Community QS Purchase Program Structure

An alternative to the CDQ Program management and oversight is the structure provided in the Council's April 2002 action on the halibut and sablefish community QS purchase program (Gulf Amendment 66). While the program is dissimilar in that it requires eligible Gulf of Alaska communities to *purchase* halibut and sablefish quota share, it begets some of the same concerns regarding fair distribution of the benefits resulting from the community quota share (IFQ). In that action, the Council required that the administrative entity permitted to hold quota share on behalf of eligible communities must be a *new* non-profit organization representing an eligible community or aggregation of two or more eligible communities.

Under the proposed action for Amendment 66, administrative entities must be approved by NMFS to be considered "qualified" prior to purchasing QS on behalf of an eligible community or group of communities. The purpose of the requirement that the non-profit organization be newly formed is to ensure that the entity is explicitly designed to meet the objective of purchasing and holding quota share on behalf of the community. Existing administrative structures, such as municipal governments or tribal councils, may be focused on a host of priorities and issues, of which fishing may be only one. Considering comments from the Scientific and Statistical Committee, the Council adopted this provision in order to help ensure that the administrative entity designated to purchase and manage the quota share is representative of the entire community, with an express purpose to manage commercial quota share.

The halibut and sablefish community quota share purchase program also provides an alternative model to the reporting and oversight mechanisms inherent in the CDQ Program, and may be considered for the Adak community allocation. Please see the discussion in Section 3.6.2.2. for further details of this structure.

Summary

In sum, in deciding the oversight mechanism for the proposed Adak community allocation, it is important to consider the relationships among the varying interests within the community, and the overall policy concern that the benefits of the allocation reach the community as a whole. As critical is the overall implication that the golden king crab allocation is intended to provide benefits that the community does not currently receive since they are not included in the CDQ Program. Given that the proposed allocation of golden king crab to Adak would be much like the direct allocation of quota made to the CDQ Program, it may be appropriate for the Council to require a similarly high level of government oversight and monitoring.

The language of the current proposal only notes that the entity representing Adak must submit a fisheries development plan and be subject to "CDQ-type management and oversight to provide assurance that the Council's goals are met." The two primary elements of government oversight in the CDQ Program are: 1) the requirement for the community development plan and supplemental reports, and 2) the requirement that certain activities by the group and its subsidiaries receive prior approval from the State and NMFS before they are undertaken. Note, however, that the program has many regulatory provisions in addition to these core requirements. Thus, the proposal to provide a community allocation to Adak must first be clarified to determine if these two core elements of CDQ-type oversight should apply. Secondly, the proposal should be clarified to determine if any other specific provisions of the CDQ Program should apply.

3.4.1.2 Ownership and Use Caps (cont.)

CDQ Ownership and Use Caps

The Council motion contains caps that limit share holdings and use, which limit consolidation of shares in each fishery. In addition, Section 1.6.3 of the motion also contains provisions that would apply the following ownership and use caps only to CDQ groups:

1.6.3 (g) CDQ Caps

Initiate analysis of the following ownership caps, which would apply to CDQ ownership of QS

Range of Analysis:

Area/Species	QS Pool Percentages
Bristol Bay red king crab	1%, 3%, 5%
Bering Sea opilio crab	1%, 3%, 5%
Bering Sea bairdi crab	1%, 3%, 5%
Pribilof red and blue king crab	2%, 6%, 10%
St. Matthew blue king crab	2%, 6%, 10%
EAI brown king crab	10%, 20%, 30%
WAI red king crab	10%, 20%, 30%
WAI brown king crab	10%, 20%, 30%

The analysis shall include a qualitative discussion of how these caps relate to cooperative formation. The analysis shall also examine caps under 1) the individual and collective rule and 2) using thresholds of 10, 50, and 100 percent ownership for inclusion in calculating cap.

In each fishery, the lowest cap proposed is equivalent to the ownership cap in the preferred alternative, which would apply to non-CDQ participants. So, in the event the Council elects to leave the current caps in place, the caps would be the lowest level for each fishery.

In considering the caps, the Council should consider that the CDQ groups each receive a 10 percent allocation in each of the fisheries (with the exception of the WAI golden crab fishery in which the community of Adak is proposed to receive a 10 percent allocation). After allocation of this 10 percent to CDQ groups, the remaining 90 percent of the fishery would be allocated to participants in the general (non-CDQ) fishery. The caps would apply only to the purchase of shares in the general fishery and would not affect or be affected by the allocation of CDQ crab to the CDQ groups. As of 2000, four of the six CDQ groups own interests in vessels that participate in the BSAI crab fisheries (DCED, 2001).

Since each of the CDQ groups could purchase up to the cap, the total possible CDQ share holdings in each of the fisheries would be six times the cap (plus the direct CDQ allocation). Table 3.4-2 shows the maximum CDQ share holdings in each fishery for each of the proposed caps.

Table 3.4-2 Maximum percentage of CDQ share holdings of the non-CDQ fishery under the proposed CDQ caps (in percentages).

Bristol Bay red king crab	Proposed CDQ cap	1	3	5
Bering Sea <i>C. opilio</i>				
Bering Sea <i>C. bairdi</i>	Maximum CDQ share holdings	6	18	30
Pribilof red and blue king crab	Proposed CDQ cap	2	6	10
St. Matthew blue king crab				
	Maximum CDQ share holdings	12	36	60
EAI (Dutch Harbor) golden king crab	Proposed CDQ cap	10	20	30
WAI (Adak) golden king crab				
WAI (Adak) red king crab	Maximum CDQ share holdings	60	100	100

Under the increased caps, CDQ groups could dominate some of the non-CDQ fisheries. In the three Aleutian Islands fisheries, CDQ groups could collectively accumulate all harvest shares under either of the proposed cap increases. In the Pribilof and St. Matthews fisheries, the increased caps would enable CDQ groups collectively to purchase in excess of one-third or one-half of the harvest shares, depending on which cap is applied. In the larger fisheries, the Bering Sea *C. opilio*, Bering Sea *C. bairdi*, and the Bristol Bay red king crab fisheries, CDQ groups collectively could accumulate 18 percent or 30 percent of the harvest shares depending on which cap is applied. In considering the appropriate cap, the Council should consider several factors, including that the CDQ groups will collectively receive allocations of 10 percent in each of the fisheries (prior to the allocation of non-CDQ shares) and that some groups will also receive an allocation of from non-CDQ fishery based on their existing interests in those fisheries. In addition, the Council should consider that the CDQ groups represent the interests of several persons and communities. This broad representation could suggest that a larger cap might be appropriate for these groups.

The Council has suggested two methods for applying the caps. The first method would be to use an individual and collective rule under which the holder of an interest in an entity that holds shares would be credited with holdings in proportion to its interest in the entity. Under this rule, a CDQ group that holds a 25 percent interest in an entity that holds 100 shares would be credited with holding 25 shares. This rule is applied in the halibut and sablefish IFQ program and is also under consideration for applying harvest share caps in this program. An alternative rule for applying the caps would be credit a CDQ group with all shares held by an entity that it holds an interest in above a specific threshold (10, 50, or 100 percent). For example, if a 50 percent threshold is adopted, a CDQ group would be credited with all shares held by any entity in which the group holds at least a 50 percent interest. This is similar to the rule applied in the AFA and is under consideration for applying processing share caps. Application of the threshold rule to CDQ groups need not limit CDQ holdings more than application of the individual and collective rule.²² The threshold rule, however, could lead CDQ groups to structure its partnerships differently to avoid exceeding the cap. If a higher cap is selected for CDQ groups, only CDQ groups would be permitted to hold shares in excess of the cap. A CDQ group may be forced to hold its shares directly (rather than in partnerships) to avoid being credited with a partner's share holdings under the threshold rule. For example, if CDQ groups are capped at 5 percent in a fishery consider a group holds a 50 percent interest in 2 partnerships, each of which holds 3 percent of the fishery. Under the threshold rule that credits a CDQ group with all shares of partnerships of which it owns at least 25 percent, this group be credited with holding shares for 6 percent of the fishery, which would exceed the cap. The CDQ group, however, would likely restructure its partnership such that its shares are held independently of its partners shares to avoid being credited with shares in excess of the

²² Although CDQ groups represent interests of several communities and persons, those communities and persons are not considered owners of the CDQ group in the traditional sense because they do not hold shares in the group. As a result, CDQ group holdings are simply holdings of the group and not its member communities and their residents. The shares of the group would therefore not be credit to the member communities or their residents for determining their compliance with the caps.

cap. In the end, the choice of rule for applying the cap is unlikely to affect the degree to which the cap limits holdings.

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CAPTAIN'S QUOTA SHARES

3.8.1 Share Allocations to Captains (C shares)

The Council motion of June 2002 identifying a preferred alternative for rationalization of the Bering Sea/Aleutian Islands crab fisheries provided that captains would be allocated 3 percent of the harvests in the fisheries. The Council motion also provided for the selection of a committee to develop specific options to implement the allocation of those shares. The committee developed a set of options and identified specific preferred options for the program. The preferred program and each option in that program were unanimously supported by the committee.

In assessing the different options, interactions between elements of the program should be considered. In addition, the objective for allocating captains shares (or "C shares") should be kept in mind to ensure that a program that meets those goals is developed. At the same time, the interaction of these rules with other aspects of the rationalization program must be considered to determine the effect of C shares on the program, as a whole.

The Council may wish to reinforce its intention that all shares under the rationalization program are a revocable privilege (and not a right) by including a provision in the motion that C shares will be a privilege, subject to, at a minimum, all limitations on IFQ privileges.

3.8.1.2 Basis for the allocation

Two options for the basis of the allocation are proposed:

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*
 - b. Allocation is from each vessel's allocation to the skipper on the vessel*

Option a would set aside 3 percent of the total QS pool for allocation to qualified captains as "C shares". Option b would make available up to 3 percent of the QS awarded to any vessel for distribution to qualified captains that fished on that vessel during the qualifying period.

Option b is an attempt to structure a distribution under which each vessel would retain its allocation unaffected by the allocation to captains. The logic behind the proposal is that a vessel's allocation would go either to its owner or the captains that fished on the vessel. Following the rationale, the total allocation to each vessel would be unaffected by the captain share allocations since the vessel's allocation would go to the owner and its captains. Whether a vessel's allocation remains whole, however, depends on whether the captain remains with the vessel.

Taking the C share allocation from the QS pool as a whole (rather than from each vessel) might be favored for several reasons. First, this allocation would distribute the burden of C shares equally among all vessel owners. Allocation on a vessel basis would not be distributed equally among all vessel owners but would burden vessel owners that maintained a single captain during the qualifying period the most. In addition, if the Council's intention is to allocate 3 percent of the QS pool to captains taking that allocation from the QS pool directly is a more direct approach to making the allocation. A vessel based allocation with up to 3 percent of each vessel's allocation available to eligible captains that fished on those vessels would allocate less than 3 percent of the QS pool to captains because landings by ineligible captains would reduce the total C share allocation from 3 percent.

Administration of the allocation is also simplified if the allocation is from the QS pool since the C share allocations would be independent of the vessel allocations. Administration of the allocation on a vessel basis would be cumbersome since it would require that a vessel's allocation be finalized prior to finalizing the allocation to its captain.

Allocation of a portion of the QS pool to captains would be fairer to participating captains since the allocation would be based solely on the activities of the captain, independent of the vessels on which the captain fished. For example, allocation on a vessel basis would preclude eligible captains that fish on unqualified vessels from getting an allocation. Legal landings could be made on unqualified vessels fishing under an interim permit. The captain of the vessel would not be rewarded with C shares, if the allocation comes only from the vessel (rather than the QS pool) since no vessel allocation would exist.

Allocating C shares from the QS pool could also help build captain/vessel owner relations. If a captain's allocation comes from a general pool, the vessel owner's allocation is not affected by the captain's allocation. A vessel's harvest will be maximized by obtaining the largest allocation for the captain. So, a vessel owner and captain have a common interest in maximizing the allocation to the captain. If the captain's allocation comes only from the vessel that the captain fished on, the owner of that vessel would have an interest directly opposed to the captain. Under that system, a vessel owner's allocation would be maximized by minimizing its captain's allocation. By pitting the owner against the captain, relationships could be harmed.

The vessel-based allocation is also likely to reward vessel owners with a history of poor relations with captains. A vessel that does not retain a captain could have prevented that captain from qualifying. The allocation that would go to the captain would then remain with the vessel. If the captain's allocation is from the QS pool as a whole, the captain's own activities determine the allocation. Captains unable to maintain good relations with vessel owners would receive shares based strictly on their participation, which is likely to be compromised by those poor relations.

3.8.1.3 Fishery basis for allocations

The following provision would define the C share allocation the different fisheries:

1.8.1.3 Species specific:

1. *As with vessels.*

This provision is assumed to provide that C shares will be categorized by fishery. This is necessary for a complete allocation of harvest shares in each fishery.

3.8.1.4 Eligibility

The following options would define eligibility for C share allocations:

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*

- a) *1 of the qualifying years used by the vessels*
- b) *2 of the qualifying years used by the vessels*
- c) *3 of the qualifying years used by the vessels and*

- 2) *having recent participation in the fishery as defined by at least*

- a) *one landing per season in the fishery in the last two seasons prior to June 10, 2002.*
- b) *one landing per season in the fishery in one of the last two*

seasons prior to June 10, 2002.

- c) 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

- a) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in the last two 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).

- b) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in one of the last two 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).

- c) 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.

Option 2

Point System

Point system-following alternative is provided:

- 1) Participation 1996-2001
Qualified by delivery in at least two different species
(Maximum 36 points)

Graduated Scale weights most recent participation

<i>Year</i>	<i>Points Awarded</i>
2001	7 points
2000	7 points
1999	6 points
1998	6 points
1997	5 points
1996	5 points

- 2) Consistent Participation 1996-2001
Qualified by making total catch in a season for two different species
(Maximum 24 points)
4 points for each year

- 3) Vessel Ownership As of January 1, 2002
(Maximum 6 points)

<i>% of Ownership</i>	<i>Points Awarded</i>
1-50%	4 points

51-75%
76-100%

5 points
6 points

** This could be used to qualify captains as a general group or on fishery by fishery basis.*

The options include two participation requirements, a historical participation requirement and a recent participation requirement. The historical requirement options range from requiring at least one landing in one qualifying year to requiring at least one landing in three qualifying years. Requiring a single landing is likely adequate given that small GHGs in recent years have limited several fisheries to single landing seasons. The requirement of participation in multiple qualifying years might be favored to show dependence on the fisheries.

Three different recent participation options are proposed, one landing in one of the last two seasons, one landing in two of the last two seasons, and one landing in two of the last three seasons. For fisheries that have been closed in recent years, options are included that would require recent participation in an open fishery. Although strict requirements (i.e., requiring participation in both of the most recent seasons) are likely to limit eligibility of participants that have left the fishery or have limited dependency on the fisheries, these strict requirements could also eliminate participants with a long history who have missed a recent season because of unavoidable circumstances. An additional option would provide an exemption from the recency requirements to captains who died from fishery related causes. Allocations would be made to the captain's estate and would be subject to any transfer and use requirements under the program.

Table 1 shows the number of eligible captains in each fishery for each combination of the eligibility options where eligibility is based on qualification and recent landings in the fishery. Table 2 shows the number of eligible captains in each fishery for closed fisheries using recent participation requirements for fisheries that are currently open. The number of captains eligible in each fishery differs substantially under the different options. The recency requirement of having landings in two most recent seasons reduces the number of eligible captains in some fisheries by as much as half from the most liberal option of having a landing in one of the two most recent seasons. In general, requiring landings in multiple qualifying years also reduces the number of eligible captains slightly from a requirement of a single landing in one qualifying year. The qualifying year participation requirements, however, could be justified since a single instance of an unavoidable circumstance is unlikely to eliminate a person from eligibility and participation in the qualifying years demonstrates reliance on the fisheries.

Requiring recent participation in an open fishery to be eligible for an allocation in a closed fishery also reduces the number of eligible captains, in the most extreme cases by as much as one third. These recency requirements, however, could be justified to avoid allocating shares to persons that left the fisheries as long as 5 years ago.

The tables show that the number of eligible captains under most of the alternatives is less than the number of harvest allocations. The exception in most fisheries occurs if landings are required in only one qualifying year and in one of the two most recent seasons. A more inclusive standard might be favored if the objective of the program is to provide all captains with some interest in the fishery that can be sold on departing. A drawback to including participants with a landing in only one qualifying year is that the allocation is likely to be very small. The marketability of these small allocations is questionable. The result could be that several small allocations are not fished, as occurred in the halibut and sablefish fishery. More restrictive eligibility rules will result in allocations that are on average larger and could be more easily sold or fished. Narrow allocation rules could be problematic in the Western Aleutian Islands (Adak) red king crab fishery where only 4 captains would receive an allocation under the more restrictive options.

Table 1. Number of eligibility captains in each fishery under various qualifying year landings and recency landings requirements.

Qualifying Years Fished	Recency Requirement ¹ (Landings in most recent seasons)	Fishery							
		Western Aleutian Islands (Adak) Golden King Crab	Western Aleutian Islands (Adak) Red King Crab	Bristol Bay Red King Crab	Bering Sea C. Opilio	Bering Sea C. Bairdi (EBS Tanner Crab)	Eastern Aleutian Islands (Dutch Harbor) Golden King Crab	Pribilof Red and Blue King Crab	St. Matthew Blue King Crab
Landings in 1 Qualifying Year	1 of 2 seasons	19	22	264	196	283	17	76	167
	2 of 2 seasons	8	2	180	148	130	12	34	81
	2 of 3 seasons	13	7	224	186	180	13	48	111
Landings in 2 Qualifying Years	1 of 2 seasons	11	7	232	182	250	15	55	121
	2 of 2 seasons	7	2	172	142	130	12	34	81
	2 of 3 seasons	11	7	216	174	180	13	48	111
Landings in 3 Qualifying Years	1 of 2 seasons	9	6	195	161	227	14	45	85
	2 of 2 seasons	6	2	152	130	124	12	32	68
	2 of 3 seasons	9	6	189	155	174	13	43	83
Number of harvest share allocations		11	28	254	245	266	12	110	138

¹ Most recent seasons are those most recent prior to June 10, 2002.

Sources: NPFMC Crab Rationalization Database, Version 1, 2001 and ADF&G Westward Fish ticket records.

Table 2. Number of eligible captains in currently closed fisheries under various qualifying year landings requirements with recency requirements based on landings in fisheries currently open.

Qualifying Years Fished	Recency Requirement ¹ (Landings in most recent seasons in an open fishery) ²	Fishery			
		Western Aleutian Islands (Adak) Red King Crab	Bering Sea C. Bairdi (EBS Tanner Crab)	Pribilof Red and Blue King Crab	St. Matthew Blue King Crab
Landings in 1 Qualifying Year	1 of 2 seasons	15	171	49	125
	2 of 2 seasons	13	131	44	97
	2 of 3 seasons	14	159	48	115
Landings in 2 Qualifying Years	1 of 2 seasons	4	161	40	96
	2 of 2 seasons	4	124	37	79
	2 of 3 seasons	4	150	40	92
Landings in 3 Qualifying Years	1 of 2 seasons	4	152	36	73
	2 of 2 seasons	4	118	34	62
	2 of 3 seasons	4	143	36	72
Number of harvest share allocations		28	266	110	138

¹ Most recent seasons are those most recent prior to June 10, 2002.

² Open fisheries are the Bering Sea C. opilio, the Bristol Bay red king crab, the WAI (Adak) golden king crab, and the EAI (Dutch Harbor) golden king crab

Sources: NPFMC Crab Rationalization Database, Version 1, 2001 and ADF&G Westward Fish ticket records.

Option 2 is uses a point system to determine eligibility. This system could also be used to determine allocations. Since the point system has no crediting of catch, allocations would be based solely on participation. Participation would be verified with fish tickets. Although a well crafted point system could be substituted for a participation based system, the proposed system may not be appropriate. The consideration of vessel ownership seems misplaced in a system that is intended to benefit hired captains. If a point system is believed to be appropriate for allocating C shares, additional proposals will likely be necessary.

The following option would base allocate C share allocations to eligible captains on the same qualification periods used for the allocation of shares to vessels. The distributions would be based on the landings shown by fish tickets with each eligible captain receiving shares equal to the average annual percentage of the qualified landings during the qualifying years.

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.*

Fish tickets would be used to verify landings, simplifying administration of the program. The allocation method would be the same as used for vessels, under which an allocation is equal to the annual average harvests in a fishery.

3.8.1.5 Share Designations

The preferred rationalization alternative creates several different types of harvest shares, which impose delivery requirements on crab harvested with those shares. The following options would subject C shares to none, some, or all of these designations:

Regionalization and Class A/B Designation

Option 1: C shares shall be a separate class of shares and not be subject to Class A share delivery requirements.

- Suboptions*
- a. *This allocation shall be made off the top and shall not affect the Class A/Class B share split for harvest shares. C shares shall not be subject to regional designations.*
 - b. *This allocation shall be made from the harvest Class B shares. C shares shall not be subject to regional designations.*

Option 2: C shares shall be a separate class of shares but shall be subject to the Class A/Class B split and any related delivery requirements associated with the parallel harvest shares. C shares shall be subject to regional designations.

Option 3: C shares shall be a separate class of shares and shall all be subject to Class A share delivery requirements.

Option 4: C shares shall not be regionally designated or have an IPQ delivery requirement, but when used shall be delivered with the same regional distribution as the harvest shares used on the vessel on a season by season basis.

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.

In determining whether to apply delivery restrictions the Council should consider the nature of the C shares and their use. Subjecting C shares to the Class A/Class B designation of harvest shares would require that C share holders match deliveries with processor shares. While this may be workable in instances where the captain and vessel owner have a good working relationship, coordination of deliveries would add complication, which could be particularly problematic if a processor does not hold sufficient shares to receive all of a vessel's harvester shares and the vessel captain's C shares. Although this situation is unlikely to occur frequently, the C share holder is likely to have little leverage in negotiating the delivery of the C shares. In addition, imposing regional delivery restrictions might have only a minor impact on the regional distribution of landings. For example, if only 75 vessels participate in a fishery and most of the 75 vessels have some C shares fished,¹ landings of C share harvests are likely to be distributed in a similar manner to the overall IFQ landings. In addition, the impact landings distributions from regionalization of C shares is likely to be limited because C shares are only a small percentage of the total harvest.

Complications arising from delivery restrictions are more problematic if C shares are subject to limits on leasing, owner on board requirements and ownership and use caps. These provisions could be important to fulfilling the purpose of C shares but will limit the ability of C share holders to use shares other than on a perfectly matched vessel. If leasing of shares is not allowed, captains will make long-term investments in C shares. Regional and delivery requirements could also have an effect on the market for C shares. While these share designations could decrease the price received by sellers, they also will segment the market for buyers interested in purchasing shares. If those shares must have a regional distribution similar to the vessel owners, a captain could have few alternatives if a vessel owner is unreasonable in negotiating payments to the captain for operating the vessel or consolidates fishing operations. For example, consider the case of a captain owning C shares and operating a vessel that fishes in the *C. opilio* fishery with landings in the North and the Bristol Bay red king and the Pribilof red and blue king crab fisheries with landings in the South. If the owner decides not to rehire the captain, the captain will be forced to either sell shares or locate a vessel that fishes with shares with the same regional distribution. In short, if C share transfers are limited, delivery restrictions on C shares could have a limited effect on the distribution of landings but could have a substantial effect on the utility of those shares to their holders. The limitations on use and transfer, in and of themselves, will also contribute to the distribution of C share landings more closely corresponding to harvest share landings.

If C shares are regionalized, the suboption would provide that regional designations would be made using the same method as will be used for regionalizing vessel harvest share allocations. Under that system, shares are regionalized based on historic landings with an adjustment made pro rata to all shareholders to match the aggregate harvest share allocation to the aggregate processor share allocation.

3.8.1.6 Transferability

The following options would govern the transferability of C 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*

¹ Since C shares could be owned by captains and crew, multiple C share holders could fish their shares from a single vessel. With multiple share holders some concentration of shares could occur.

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.

The motion contains two options concerning the sale of C shares, either or both of which could be adopted. The first option would permit transfer to any person with at least 150 days of sea time in a U.S. commercial fishery in a harvest capacity. The second option would allow transfers of QS only to active participants, where active participants are defined as skippers and crew that have participated in at least one delivery in a fishery included in the proposed rationalization program in the last 365 days. This participation could be demonstrated by either an ADF&G fish ticket, an affidavit of the vessel owner, or other verifiable evidence.

Permitting transfer of C shares to any person could limit the effectiveness of these shares in protecting the rights of crewmembers. If C shares could be sold to vessel owners, it is likely that the shares would protect only captains and crewmembers that receive an allocation, and not entering captains and crew or captains and crew wishing to increase their interests in the fisheries. Allowing transfer and use only by active captains and crew with a history of participation as a harvester would create a separate class of shares that could result in a lower share price, making the shares more affordable to crew wishing to purchase shares. This limitation on transfers would also decrease the windfall to those captains that received an initial allocation. This separate class of shares would only be available to active captains and crew, increasing the likelihood that their interests are protected by these shares. Requiring participation in the BSAI crab fisheries increases the likelihood that C shares will be held only by those knowledgeable of the fisheries.

The following options have been proposed to regulate leasing of C shares:

1.8.1.7

2. C share leasing

- a. C QS are leasable for the first three seasons a fishery is prosecuted after program implementation.*

Suboption: limit to the following fisheries only:

Pribilof red and blue crab and St. Matthew blue crab

- 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 of a maximum of 2 years over a 10 year period.*

Prohibitions on leasing are intended to ensure that C share holders are active in the fisheries and hold shares as a long term investment to support their active participation. The first provision would permit leasing of C shares in each fishery for the first three years the fishery is open after implementation of rationalization. Permitting leasing in these early years could assist captains in the transition to a rationalized fishery. In addition, permitting leasing could help stabilize prices of C shares in the early years, when trading is likely to peak as captains consolidate interests or exit fisheries. The suboption would limit this three year permitted leasing to the St. Matthew blue king and Pribilof red and blue king crab fisheries. This provision would be premised on the idea that these fisheries are less accessible and have fewer participants. As such, it is possible that not all skippers and crew would participate in these fisheries in every year, or that consolidation of the fleet would occur under a rationalization program and fewer vessels and crew would be used to harvest the quota. Leasing would permit a skipper or crewmember to maintain an interest in the fishery in the event that he or she is unable (or it is not economical for him or her) to participate in the fishery in one of the first years of the rationalization program.

An additional option would permit 2 years of leasing in the case of a hardship (such as a medical disability). Permitting leasing during hardships will prevent a forced divestiture of C shares by a person unable to participate because of uncontrollable circumstances.

3.8.1.9 Owner On Board Requirements and Ownership Caps

Owner on board requirements could be applied to C shares to ensure that the shares benefit active captains and crewmembers.² Ownership caps would ensure that the benefits of the shares are distributed among several participating captains and crew. The following owner on board requirements and ownership caps are proposed:

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 1. the same as the individual ownership caps for each species*
 - Option 2. the same as the vessel use caps for each species*
 - Option 3. double 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.

The only owner on board option would require that the owner of the underlying QS be on board the vessel on which the shares are fished. Any permitted leasing of shares would be an exception to this owner on board requirement.

Three options are provided for establishing ownership caps. These range from the individual ownership cap to the double the vessel use cap (or four times the individual ownership cap). Permitting C share ownership up to the vessel use cap could be justified as a means to allow each captain to own a portion of the C share pool equivalent the share of the QS pool that can be fished on a vessel. This would allow the number of participating captains holding C shares to be reduced to the same level as the number of participating vessels in each fishery. Since C shares could be owned by captains or crew, multiple persons on each vessel could own C shares. Lower caps on C share ownership could facilitate a more active market for C shares and prevent their consolidation. The small share of the fishery represented by C shares should also be kept in mind in setting the cap.

The following provision would exempt C shares from a vessel's use cap:

1.8.1.9

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

By exempting C shares from use caps, captains are provided greater mobility and flexibility to move throughout the fleet. In addition, this would treat C shares as a separate share class governed by rules designed specifically for C shares.

² Permitted leasing of shares would be an exception to the owner on board requirements.

3.8.1.10 Catcher/Processor Captains

Catcher/processors have a unique role in fisheries because of their participation in both harvesting and processing. The following options relate to allocations and use of C shares by catcher/processor captains:

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 1. The same rule applies to C/P C QS if they leave the C/P sector as in section 1.7.2.4.

Option 2. C/P C shares shall be useable only on C/Ps.

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.

Option 4. If C shares are not subject to IPQ delivery requirements, C shares may be harvested and processed on C/Ps or harvested on catcher vessels and delivered to shore based processors.

The first provision would allocate catcher/processor C shares to captains with catcher/processor history. This provision is necessary for these captains to continue their historic participation. Four different options are proposed for governing later use of catcher/processor shares and the use of C shares on catcher/processors. Option 1 would permit catcher/processor shares to be divided into separate harvest shares and processing shares, if they were taken out of the catcher/processor sector. This provision only applies if C shares are subject to processor share delivery requirements. Option 2 would limit the use of catcher/processor C shares to the catcher/processors. Option 3 would provide greater flexibility allowing use of catcher/processor shares on catcher vessels delivering to shore based processors. Options 2 and 3 could be adopted whether or not C shares are subject to processor share delivery requirements. Option 4 would provide additional flexibility for the use of C shares, if C shares are not subject to IPQ delivery requirements. The provision would allow the use of all C shares on catcher/processors.

3.8.1.11 Cooperatives and Binding Arbitration

The following option would permit C share holders to enter cooperatives:

1.8.1.11 Cooperatives

C share holders shall be eligible to join cooperatives.

Permitting cooperative membership for C share holders might facilitate greater coordination of the use of C shares with harvest shares. Cooperative membership, however, would not affect the restrictions on use and leasing of the C shares.

Whether C shares holders are eligible for binding arbitration should depend on the nature of the shares. If IPQ delivery restrictions are imposed on the shares, inclusion in the arbitration program is more appropriate. If C shares are not subject to delivery restrictions the need for inclusion of the C share holders in the binding arbitration program is decreased.

3.8.4 The Loan Program

The Council motion provided for the development of a loan program to assist captain and crew purchase of QS with the following option:

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.

In addition to the loan program proposal advanced by the Council, the captain's QS committee proposed additional options concerning the proposed loan program:

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.

The committee proposed that loan funds be available only to active participants, defined as a person with at least one landing in a BSAI crab fishery in the last 365 days. In addition, the committee recommends that the initial funding of \$250,000 be sought, which would be available for loans on implementation of the rationalization program. Development of funding through the cost recovery program could take as long as three years and significantly affect both purchasers and sellers of C share holders. The proposed initial funding could be used to finance loan money of approximately \$25 million, which would provide stability to the C share market from the outset. The committee supports active participation in the fisheries by any purchaser of shares during the life of any loan used to purchase the shares. Several details of the loan program will need to be specified prior to implementation of the program. Eligibility criteria for loans, maximum loan amounts, any limitations on the number of shares that can be purchased with loan money all must be determined. The current committee could continue to work to develop the details of the loan program.

The options proposed for the loan program are intended to advance the program as a means for active participants to obtain or expand interests in the fishery. Permitting active participants to use loan funds to purchase any type of harvest shares provided the buyer complies with limitations on use and transfers that require active participation in the fishery should facilitate the increased interests of active participants in the crab fisheries. Obtaining advanced funding for the loan program would also assist in the development of a market for C shares, which could prevent some consolidation of C shares in the early years of the program. The loan program is likely to assist captains, who received small allocations, and crew, who received no allocation, in gaining an interest in the fisheries. A loan program will also reduce the funding of C share purchases by vessel owners, which could aid captains and crew in developing greater independence in a rationalized fishery.

SIDEBOARDS

3.10.1 The Effects of Rationalization on Other Fisheries

3.10.1.1 Council Alternatives

Rationalization of the BSAI crab fisheries may provide opportunities for fishermen to alter their crab fishing patterns to take greater advantage of other fisheries. Increasing their effort in those other fisheries could negatively impact other participants in those fisheries that have traditionally relied on them for fishing income. Changes in fishing patterns may also provide more opportunities to become involved in other fishing related activities such as tendering. Similar concerns were raised when the AFA was passed. Based on those concerns and requirements to protect participants in other fisheries prescribed in the AFA, the Council spent considerable time developing sideboard caps which limit the amount of other species AFA pollock boats can harvest to their historic levels. A detailed discussion of those caps may be found in the AFA Draft EIS (NMFS, 2001).

3.10.1.2 Historic Participation in Other Fisheries

To expand their operations into Federally managed groundfish or scallop fisheries, crab vessels qualifying under the rationalization program would be required to hold a license and endorsements allowing participation in those fisheries. Groundfish licenses are area specific (GOA and BSAI) with area endorsements for the Western Gulf, the Central Gulf, and the Eastern under the GOA license and area endorsements for the Bering Sea and the Aleutian Islands under the BSAI license. In the future, endorsements for trawl gear, non-trawl gear, or both gear types will be added to the general license limiting gear deployment to the endorsed type. The Council and the Secretary of Commerce have approved those amendments. Current expectations are that the gear endorsements will be added to licenses for the 2003 fishing year.

BSAI crab vessels meeting the legal requirements could also enter State water fisheries for Pacific cod in the GOA. These vessels also tender when they are not fishing. Each of these options is discussed below. Projecting impacts on the other fisheries and vessel owners, however, is difficult. Movement into those fisheries will ultimately depend on a variety of factors that cannot be projected with accuracy at this time. Some of those factors are the amount of crab quota a vessel owner holds and crab TACs, the cost of converting the vessel to participate in other fisheries, the licenses held by the vessel owner that could be applied to a vessel, and the ability of a vessel to operate efficiently in other fisheries.

Table 3.10-1 lists the crab and groundfish endorsements associated with vessels that appear to qualify under the proposed rationalization alternatives. That table indicates that 86 of the 253 licenses carry endorsements for one endorsement area for groundfish. 63 of the 86 licenses carry endorsements for either the BS or AI. The remaining 23 licenses carry endorsements to fish federally managed groundfish in a GOA endorsement area. Other crab licenses (the remaining 167 licenses) are bundled with a groundfish license that has endorsements for more than one area. Twenty of those licenses carry endorsements for only the BS and AI.

Table 3.10-2 indicates that less than 4 percent of the ex vessel revenue generated by crab vessels that are projected to qualify for the rationalization program came from fisheries other than the BSAI crab fisheries being considered for rationalization, the pollock fisheries, and the Pacific cod fisheries. Of the 4 percent, other groundfish species accounted for less than 1 percent and species outside the Council's FMPs accounted for the remaining 3 percent. These numbers include the AFA catcher vessels whose participation in other fisheries is already capped. When the AFA vessel revenues are excluded, the revenues generated from the pollock and Pacific cod fisheries drop dramatically (see Table 3.10-3).

Table 3.10-1: Number of LLP vessels with various combinations of crab and groundfish endorsements and CFEC tender permits

Crab Endorsements	Groundfish Endorsements														Grand Total	CFEC Tendering Permits
	WG	SE	CG	CG & WG	BS	BS & WG	BS & CG	AI	AI & WG	AI & CG	AI, BS & CG	AI, BS, CG & WG	BS	BS & CG		
PRBK	1	2	3	1	1	1	1	1	1	1	1	1	1	1	7	3
NSRBK	1	2	3	4	1	1	1	1	1	1	1	1	1	1	16	3
NSRBK & PRBK					3	3	3	3	3	3	3	3	3	3	3	3
BBRKC	2				2	2	2	2	2	2	2	2	2	2	4	3
BBRKC & PRBK,	1				2	1	1	2	2	2	2	2	2	2	4	1
BAOB					1	3	1	1	1	1	1	1	1	1	7	3
BAOB, PRBK,					1										1	1
BAOB, BBRKC					5	1	2	5	4	11	1	4	12	19	64	30
BAOB, BBRKC, & ,STMBK					19	8	2	5	2	9	2	3	2	6	55	23
BAOB, BBRKC, & PRBK	1	2	1	5	2	4	5	1	1	1	1	1	2	24	13	
BAOB, BBRKC, PRBK, & STMBK	1	3	1	18	7	2	2	3	3	3	3	1	3	40	26	
AIRK, BAOB, & BBRKC					2	1	1	1	1	1	1	1	1	1	1	2
AIRK, BAOB, BBRKC, & STMBK					1										4	2
AIRK, BAOB, BBRKC, & PRBK															1	1
AIRK, BAOB, BBRKC, PRBK, & STMBK					5	1	1	1	1	1	1	1	1	8	8	2
AIBK, BAOB, BBRKC, & STMBK	1				2	2	1	2	2	2	2	2	2	5	5	3
AIBK, BAOB, BBRKC, PRBK & STMBK	1				2	1	1	1	1	1	1	1	1	5	5	3
AIBK, AIRK, BAOB, & STMBK					1					1				1	1	1
AIBK, AIRK, BAOB, BBRKC, & STMBK					1					1				1	1	1
AIBK, AIRK, BAOB, BBRKC, PRBK, & STMBK	4	1	18	9	60	29	18	33	3	20	18	6	33	253	114	
Grand Total	4	1	18	9	60	29	18	33	3	20	18	6	33	253	114	

Source: NMFS RAM Division LLP data

- Key:
- PRBK = Pribilof red king crab and Pribilof blue king crab
 - NSRBK = Norton Sound red and blue king crab
 - BBRK = Bristol Bay red king crab
 - BAOB = EBS snow crab and EBS tanner crab
 - AIRK = Adak red king crab
 - AIBK = AI golden king crab

Table 3.10-2: Gross revenue (nominal \$ mill.) by crab vessels projected to qualify under rationalization, by area endorsement on groundfish license

Year	Fishery	Groundfish Area Endorsements on License										Grand Total
		BS	BS & WG	BS & CG	BS, CG, & WG	AI & BS	AI, BS, & WG	AI, BS, & CG	AI, BS, CG, & WG	All Other		
1996	\$ from BSAI Crab	\$ 33.28	\$ 12.68	\$ 2.77	\$ 4.10	\$ 13.07	\$ 5.19	\$ 2.05	\$ 7.35	\$ 8.50	\$ 88.99	
	\$ from Pollock	\$ 0.07	\$ 1.17	\$ 0.20	\$ 1.76	\$ -	\$ 2.31	\$ 0.00	\$ 4.81	\$ 0.00	\$ 10.31	
	\$ from P. Cod	\$ 3.73	\$ 0.91	\$ 1.13	\$ 1.53	\$ 0.00	\$ 0.57	\$ 0.05	\$ 0.74	\$ 0.18	\$ 8.84	
	\$ from Other Groundfish	\$ 0.00	\$ 0.12	\$ 0.23	\$ 0.30	\$ -	\$ 0.01	\$ 0.15	\$ 0.18	\$ 0.22	\$ 1.22	
	\$ from Other Species	\$ 0.67	\$ 0.15	\$ 0.75	\$ 0.73	\$ 0.28	\$ 0.00	\$ 0.28	\$ 0.36	\$ 0.99	\$ 4.22	
1997	\$ from BSAI Crab	\$ 32.21	\$ 10.60	\$ 3.34	\$ 4.49	\$ 9.15	\$ 5.88	\$ 1.87	\$ 5.54	\$ 7.65	\$ 80.72	
	\$ from Pollock	\$ 1.21	\$ 1.48	\$ 1.51	\$ 3.95	\$ 0.09	\$ 12.67	\$ 0.10	\$ 11.24	\$ -	\$ 32.25	
	\$ from P. Cod	\$ 3.28	\$ 0.74	\$ 1.14	\$ 2.40	\$ 0.05	\$ 2.93	\$ 0.00	\$ 1.71	\$ 0.01	\$ 12.26	
	\$ from Other Groundfish	\$ 0.01	\$ 0.00	\$ 0.19	\$ 0.67	\$ 0.00	\$ 0.41	\$ 0.31	\$ 0.01	\$ 0.23	\$ 1.84	
	\$ from Other Species	\$ 0.41	\$ 0.52	\$ 1.68	\$ 1.81	\$ 0.29	\$ 0.00	\$ 0.45	\$ 0.01	\$ 0.84	\$ 6.00	
1998	\$ from BSAI Crab	\$ 42.36	\$ 14.48	\$ 3.85	\$ 5.97	\$ 10.41	\$ 7.64	\$ 1.92	\$ 8.32	\$ 8.95	\$ 103.89	
	\$ from Pollock	\$ 0.99	\$ 0.83	\$ 1.09	\$ 3.41	\$ 0.02	\$ 7.67	\$ 0.08	\$ 6.34	\$ 0.00	\$ 20.44	
	\$ from P. Cod	\$ 1.11	\$ 0.18	\$ 1.23	\$ 2.75	\$ 0.15	\$ 0.95	\$ 0.14	\$ 1.43	\$ 0.07	\$ 8.02	
	\$ from Other Groundfish	\$ 0.01	\$ 0.00	\$ 0.31	\$ 0.46	\$ 0.00	\$ 0.01	\$ 0.17	\$ 0.01	\$ 0.05	\$ 1.03	
	\$ from Other Species	\$ 0.20	\$ 0.40	\$ 0.58	\$ 1.35	\$ -	\$ 0.00	\$ 0.20	\$ -	\$ 0.53	\$ 3.26	
1999	\$ from BSAI Crab	\$ 53.76	\$ 18.69	\$ 6.24	\$ 10.18	\$ 16.97	\$ 10.34	\$ 3.01	\$ 13.54	\$ 13.02	\$ 145.76	
	\$ from Pollock	\$ 1.02	\$ 1.40	\$ 2.12	\$ 4.58	\$ 0.39	\$ 12.80	\$ 0.01	\$ 12.52	\$ 0.00	\$ 34.84	
	\$ from P. Cod	\$ 2.72	\$ 0.68	\$ 1.87	\$ 4.12	\$ 0.36	\$ 1.54	\$ 0.03	\$ 1.38	\$ 0.31	\$ 13.00	
	\$ from Other Groundfish	\$ 0.01	\$ 0.00	\$ 0.12	\$ 0.40	\$ 0.00	\$ 0.01	\$ 0.07	\$ 0.03	\$ 0.09	\$ 0.72	
	\$ from Other Species	\$ 0.40	\$ 0.49	\$ 1.30	\$ 2.64	\$ -	\$ 0.00	\$ 0.28	\$ 0.15	\$ 0.65	\$ 5.90	
2000	\$ from BSAI Crab	\$ 21.26	\$ 7.34	\$ 2.22	\$ 3.98	\$ 6.28	\$ 3.97	\$ 1.71	\$ 5.16	\$ 8.37	\$ 60.28	
	\$ from Pollock	\$ 1.37	\$ 1.52	\$ 1.61	\$ 2.65	\$ 0.37	\$ 9.42	\$ 0.00	\$ 7.30	\$ 0.00	\$ 24.24	
	\$ from P. Cod	\$ 4.95	\$ 1.79	\$ 2.17	\$ 2.70	\$ 0.86	\$ 3.02	\$ 1.09	\$ 1.44	\$ 0.82	\$ 18.83	
	\$ from Other Groundfish	\$ 0.02	\$ 0.01	\$ 0.18	\$ 0.62	\$ 0.00	\$ 0.01	\$ 0.00	\$ 0.13	\$ 0.07	\$ 1.04	
	\$ from Other Species	\$ 0.00	\$ 0.68	\$ -	\$ 0.13	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.88	
Total	\$ from BSAI Crab	\$ 182.87	\$ 63.79	\$ 18.42	\$ 28.71	\$ 55.88	\$ 33.02	\$ 10.56	\$ 39.91	\$ 46.48	\$ 479.64	
	\$ from Pollock	\$ 4.66	\$ 6.41	\$ 6.53	\$ 16.35	\$ 0.87	\$ 44.87	\$ 0.19	\$ 42.21	\$ 0.00	\$ 122.08	
	\$ from P. Cod	\$ 15.78	\$ 4.29	\$ 7.55	\$ 13.49	\$ 1.41	\$ 9.01	\$ 1.32	\$ 6.70	\$ 1.40	\$ 60.96	
	\$ from Other Groundfish	\$ 0.05	\$ 0.14	\$ 1.03	\$ 2.45	\$ 0.00	\$ 0.45	\$ 0.70	\$ 0.36	\$ 0.66	\$ 5.84	
	\$ from Other Species	\$ 1.68	\$ 2.25	\$ 4.30	\$ 6.66	\$ 0.57	\$ 0.00	\$ 1.21	\$ 0.58	\$ 3.00	\$ 20.25	

Source: NPFMC Bering Sea Crab Database 2001 Version 1

Table 3.10-3: Gross revenue (nominal \$ mill.) by non-AFA crab vessels projected to qualify under rationalization, by area endorsement on groundfish license

Year	Fishery	Groundfish Area Endorsements on License										Grand Total
		BS	BS & WG	BS & CG	BS, CG, & WG	AI & BS	AI, BS, & WG	AI, BS, & CG	AI, BS, CG, & WG	All Other		
1996	\$ from BSAI Crab	\$ 33.25	\$ 12.45	\$ 2.55	\$ 3.61	\$ 13.07	\$ 4.94	\$ 2.05	\$ 5.82	\$ 8.50	\$ 86.24	
	\$ from Pollock	\$ 0.06	\$ 0.00	\$ -	\$ 0.19	\$ -	\$ -	\$ 0.00	\$ -	\$ 0.00	\$ 0.25	
	\$ from P. Cod	\$ 3.60	\$ 0.73	\$ 0.98	\$ 1.29	\$ 0.00	\$ 0.07	\$ 0.05	\$ 0.01	\$ 0.18	\$ 6.91	
	\$ from Other Groundfish	\$ 0.00	\$ 0.00	\$ 0.23	\$ 0.30	\$ -	\$ 0.00	\$ 0.15	\$ 0.18	\$ 0.22	\$ 1.08	
	\$ from Other Species	\$ 0.67	\$ 0.15	\$ 0.75	\$ 0.73	\$ 0.28	\$ 0.00	\$ 0.28	\$ 0.36	\$ 0.99	\$ 4.22	
1997	\$ from BSAI Crab	\$ 31.73	\$ 10.35	\$ 2.86	\$ 3.86	\$ 9.07	\$ 4.17	\$ 1.72	\$ 4.25	\$ 7.65	\$ 75.67	
	\$ from Pollock	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.32	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 0.32	
	\$ from P. Cod	\$ 2.84	\$ 0.41	\$ 0.68	\$ 1.32	\$ 0.01	\$ 0.71	\$ 0.00	\$ 0.00	\$ 0.01	\$ 5.98	
	\$ from Other Groundfish	\$ 0.01	\$ -	\$ 0.19	\$ 0.56	\$ -	\$ 0.19	\$ 0.16	\$ 0.00	\$ 0.23	\$ 1.35	
	\$ from Other Species	\$ 0.41	\$ 0.52	\$ 1.68	\$ 1.57	\$ 0.29	\$ 0.00	\$ 0.45	\$ 0.01	\$ 0.84	\$ 5.76	
1998	\$ from BSAI Crab	\$ 41.94	\$ 13.86	\$ 3.57	\$ 5.23	\$ 10.30	\$ 6.09	\$ 1.85	\$ 5.88	\$ 8.95	\$ 97.65	
	\$ from Pollock	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.13	\$ -	\$ 0.00	\$ -	\$ 0.00	\$ 0.00	\$ 0.13	
	\$ from P. Cod	\$ 0.94	\$ 0.17	\$ 0.37	\$ 1.86	\$ 0.00	\$ 0.10	\$ 0.14	\$ 0.14	\$ 0.07	\$ 3.79	
	\$ from Other Groundfish	\$ 0.01	\$ -	\$ 0.12	\$ 0.30	\$ -	\$ 0.00	\$ 0.09	\$ 0.00	\$ 0.05	\$ 0.58	
	\$ from Other Species	\$ 0.20	\$ 0.40	\$ 0.58	\$ 1.21	\$ -	\$ 0.00	\$ 0.20	\$ -	\$ 0.53	\$ 3.12	
1999	\$ from BSAI Crab	\$ 52.38	\$ 17.55	\$ 5.44	\$ 6.74	\$ 16.68	\$ 8.18	\$ 2.84	\$ 9.03	\$ 13.02	\$ 131.86	
	\$ from Pollock	\$ 0.00	\$ 0.00	\$ -	\$ 0.16	\$ 0.00	\$ -	\$ 0.00	\$ -	\$ 0.00	\$ 0.16	
	\$ from P. Cod	\$ 2.33	\$ 0.61	\$ 0.97	\$ 2.80	\$ 0.16	\$ 0.16	\$ 0.03	\$ 0.17	\$ 0.31	\$ 7.54	
	\$ from Other Groundfish	\$ 0.01	\$ 0.00	\$ 0.12	\$ 0.29	\$ 0.00	\$ -	\$ 0.07	\$ 0.00	\$ 0.09	\$ 0.58	
	\$ from Other Species	\$ 0.40	\$ 0.49	\$ 1.30	\$ 2.32	\$ -	\$ -	\$ 0.28	\$ 0.15	\$ 0.65	\$ 5.58	
2000	\$ from BSAI Crab	\$ 20.46	\$ 7.08	\$ 2.00	\$ 2.97	\$ 6.18	\$ 2.48	\$ 1.61	\$ 3.92	\$ 8.37	\$ 55.08	
	\$ from Pollock	\$ 0.00	\$ 0.00	\$ 0.07	\$ 0.10	\$ 0.00	\$ 0.00	\$ -	\$ 0.03	\$ 0.00	\$ 0.19	
	\$ from P. Cod	\$ 3.88	\$ 1.07	\$ 1.27	\$ 1.98	\$ 0.71	\$ 0.51	\$ 0.34	\$ 0.60	\$ 0.82	\$ 11.19	
	\$ from Other Groundfish	\$ 0.02	\$ 0.00	\$ 0.18	\$ 0.46	\$ 0.00	\$ 0.00	\$ -	\$ 0.12	\$ 0.07	\$ 0.85	
	\$ from Other Species	\$ 0.00	\$ 0.68	\$ -	\$ 0.13	\$ -	\$ -	\$ -	\$ 0.06	\$ -	\$ 0.88	
Total	\$ from BSAI Crab	\$ 179.77	\$ 61.30	\$ 16.42	\$ 22.41	\$ 55.29	\$ 25.86	\$ 10.08	\$ 28.91	\$ 46.48	\$ 446.50	
	\$ from Pollock	\$ 0.06	\$ 0.00	\$ 0.07	\$ 0.89	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.03	\$ 0.00	\$ 1.06	
	\$ from P. Cod	\$ 13.60	\$ 2.98	\$ 4.27	\$ 9.26	\$ 0.88	\$ 1.55	\$ 0.56	\$ 0.92	\$ 1.40	\$ 35.41	
	\$ from Other Groundfish	\$ 0.05	\$ 0.00	\$ 0.84	\$ 1.91	\$ 0.00	\$ 0.20	\$ 0.48	\$ 0.30	\$ 0.66	\$ 4.44	
	\$ from Other Species	\$ 1.68	\$ 2.25	\$ 4.30	\$ 5.97	\$ 0.57	\$ 0.00	\$ 1.21	\$ 0.58	\$ 3.00	\$ 19.55	

Source: Summarized from the NPFMC Bering Sea Crab Data Base / 2001_1

The Council may wish to consider the information presented in Table 3.10-3 when contemplating sideboards, since the AFA fleet's participation in other fisheries is already capped. Information in Table 3.10-3 shows that the non-AFA vessels had relatively small levels of participation in groundfish fisheries under the Council's authority. A total of \$12.23 million was generated from groundfish fisheries in 2000. Access to the directed BSAI pollock fishery is already limited under the AFA and should not be a concern. Pacific cod accounted for \$11.19 million (over 91 percent) of the total. Participation in other groundfish fisheries generated only \$0.85 million for these vessels in 2000. Therefore, if sideboard caps were placed on these vessels based on their recent historic catch, they would be limited to very small amounts of groundfish other than Pacific cod.

BSAI Pacific Cod Participation in the BSAI Pacific cod fishery is already limited through a variety of regulations. Those include a split of the available BSAI Pacific cod TAC (after CDQ and bycatch deductions) with 51 percent allocated to fixed gear, 47 percent to trawl gear, and 2 percent to jig gear. That split in the BSAI TAC prohibits vessels using one gear type from preempting another gear type's harvest of the quota. Amendment 64 (effective in 2000) further split the fixed gear quota among pot and longline vessels, with pot and longline vessels under 60 feet in length receiving 1.4 percent of the allocation and pot vessels receiving 18.3 percent of the allocation.

The Council and the Secretary of Commerce have also approved adding gear endorsements to groundfish licenses, which are projected to be added to the licenses for the 2003 fishery. Gear endorsements will further limit the number of vessels that will be allowed to use gear types they have not traditionally fished to harvest Pacific cod from the BSAI.

Participation in the BSAI Pacific cod fixed gear fishery will be limited further by Amendment 67. Amendment 67 will add a Pacific cod endorsement to BSAI groundfish fixed gear licenses. The RIR that was developed to implement Amendment 67 projected that only 47 pot catcher vessels met the qualifying criteria for a Pacific cod endorsement (less than half of the number of vessels that have participated annually from 1996-2000). When implemented this will limit the number of crab pot vessels that can participate in the BSAI cod fishery. Finally, the Council is considering Amendment 68, which would further split the pot gear quota (18.3 percent) among pot catcher vessels and pot catcher/processors. This action will be considered when the Council takes up the BSAI Pacific cod split between the fixed and trawl gear sectors that is set to expire on December 31, 2003.

The current Pacific cod harvest limits and limited entry programs (and those under consideration) for the BSAI seem to provide members of the cod fishery protection from increased participation of BSAI crab vessels that could result from rationalizing the crab fisheries. If that level of protection is deemed to be inadequate, the Council could decide to limit BSAI crab vessel harvests to historic levels.

GOA Pacific Cod In 2002, the overall GOA Pacific cod ABC was reduced about 15 percent relative to 2001. An increase in the amount of Pacific cod allocated to the State fishery also occurred in some areas in 2002.

Ninety percent of the GOA Pacific cod has been allocated to the inshore sector and 10 percent to the offshore sector since the first Inshore/Offshore amendment was implemented in 1992. Vessels in the BSAI crab fleet would be assigned to the inshore sector if they deliver GOA Pacific cod to a shorebased processor, they process less than 126 mt of groundfish per week, or they deliver to a floating processor that remains in a single geographic location in the GOA throughout the year. It is assumed that most of the BSAI crab vessels that are eligible to fish in the GOA (under the LLP) could meet the inshore criteria, and harvest Pacific cod assigned to the inshore sector.

Currently the only requirement to fish Pacific cod in the Federal waters of the GOA is a valid groundfish license. Of the crab vessels that appear to qualify for the crab rationalization program, 122 vessels are licensed to fish in the Western Gulf, 106 in the Central Gulf, and two in the Eastern Gulf of Alaska. Given

the above distribution of licenses, the primary areas of concern for spillover from the BSAI crab fisheries appear to be the Western and Central Gulf management areas.

Unlike the BSAI, the GOA cod TAC is not divided among gear groups. A single allocation is made that can be fished by any legal gear type (trawl, hook and line, pot, and jig). All cod fisheries are closed once the TAC for a season is taken. Halibut bycatch is apportioned to the trawl and hook and line sectors separately. Separate closures are made for trawl and longline vessels if either gear type catches its halibut bycatch allotment before the TAC is harvested. Pot vessels are exempt from halibut bycatch closures. Therefore, vessels using pot gear are allowed to continue fishing cod even if the halibut bycatch allotments are taken. The pot fishery is closed only when the cod TAC available to them has been harvested.

Western Gulf of Alaska The 2002 Western Gulf TAC is 16,849 mt and will be split 60/40 between the A and B seasons, respectively. The A/B splits are then further divided so that 90 percent is apportioned for processing by the inshore sector and 10 percent is allocated to the offshore sector.

In 2000, Western Gulf Pacific cod harvests made using pot gear averaged about 685 mt per week during the seven weeks (using week ending dates) from January 22, 2000 through March 4, 2000 (NMFS Blend data). Over 98 percent of the Pacific cod harvested with pot gear from the Western GOA (according to NMFS Blend data) was taken during those weeks. The maximum weekly reported catch during this period was 857 mt. The smallest weekly catch was 517 mt. Recall that in 2000 the BS *C. opilio* season was postponed until April 1st, so the entire BS *C. opilio* fleet had the opportunity to fish Pacific cod in the BSAI or the GOA during January and February.

In 2001, the Pacific cod A season opened on January 20th for trawl gear and January 1st for all other gear types. The inshore fishery closed to all gear types on February 27th and the offshore fishery was closed on April 26th. The pot gear fishery was then reopened on September 1st and stayed open for the remainder of the fishing year. The inshore longline fishery reopened on September 1st and closed on September 4th. The trawl inshore and offshore fisheries opened September 1st and closed September 5th. The trawl fishery then reopened on October 1st and closed on October 21st for the remainder of the year.

About 21 percent of cod harvested in the Western Gulf were taken with pot gear during 2001, 22 percent in 2000, 12 percent in 1999, and 8 percent in 1998 (NMFS Web Site²³). The trend indicates that the harvest of Pacific cod by pot gear in the Western Gulf increased in percentage terms each year from 1998 through 2000 and then declined slightly in 2001. The increase in the percentage of cod harvested with pot gear in 2000 and 2001 likely resulted from a few factors. The BS *C. opilio* season opening was delayed from January 15th until April 1st in 2000, allowing participants in that fishery to increase participation in the cod fishery in January and February. In addition, the harvests in the BS *C. opilio* fishery declined substantially in 2000 and remained relatively low in 2001, freeing up participants to increase their activity in the cod fisheries. This overall increase in effort may indicate that there is some need for sideboards in the Federal Western GOA cod fishery.

During the 1995-2000 fishing years, an average of 27 vessels that appear to qualify for the crab rationalization program participated in the Western Gulf Pacific cod fishery. Those vessels harvested an average of 10.7 percent of the fish retained in the directed Pacific cod fisheries during those years (the numbers include the Pacific cod as well as the other species that were retained in the directed cod fishery). Table 3.10-4 shows the overall participation of BSAI crab vessels in the Western Gulf fisheries over that time period. The percentages show these vessels' groundfish harvests in the Western Gulf using all gear types relative to the total TAC for the area. The total tons of retained harvest and the percent of the Western Gulf

²³The source of these data was the NMFS web site. An example of the location where these files can be found is www.fakr.noaa.gov/2001/goa01g.txt for the year 2001. The other years (1998 - 2000) can be found by inserting the correct year in the appropriate two places in the Internet address.

TAC are relatively low. Information from both State and Federal waters fisheries are included for Pacific cod. State waters fisheries include those fisheries open after the Federal fishery closes. State waters fisheries typically open seven days after the Federal fishery closes.

Table 3.10-4: Participation of BSAI crab rationalization qualified vessels in the Western Gulf groundfish fisheries.

Year	Number of vessels	Pacific cod (mt)	Pacific cod percent of TAC	All other groundfish (mt)	All other groundfish Percent of TAC
1995	31	1,572	7.8	828	2.0
1996	22	2,286	12.1	1,471	1.4
1997	24	2,486	10.3	603	1.6
1998	25	2,204	9.5	481	1.0
1999	17	2,158	5.0	694	1.7
2000	43	4,026	19.5	343	1.0
Average	27	2,455	10.7	737	1.5

Source: Summarized from the NPFMC Crab Data Base 2001 Version 1

As the table shows, the catch of all species taken during the directed Pacific cod fishery almost doubled in 2000. That increase is likely related to the delay of the BS *C. opilio* fishery. If the crab fleet is rationalized, it is unlikely that all 122 LLP eligible crab vessels would elect to fish Pacific cod in the Western GOA during January and February. Some of the vessels would likely continue to fish BS *C. opilio* in these months. Other vessels would likely be sent by their owners to fish cod in the BSAI. Still other vessels would likely be idled, if it were economically efficient to do so. Estimates of the number of vessels that will be used in each activity cannot be made with any certainty. A variety of factors will contribute to a vessel owners ultimate decision to pursue a particular activity. It can only be assumed that owners will consider all factors and determine the best use for a vessel at a particular time of the year. Many of these factors, including relative exvessel prices in the future, variable costs associated with participation in other activities, and tendering options cannot be quantified with the information currently available to the analysts. Given the uncertainty surrounding future decisions, it can only be concluded that a portion of the BSAI crab fleet will elect to participate in future Western GOA cod fisheries.

Central Gulf The TAC set for the 2002 Central GOA cod fisheries is 24,790 mt. Sixty percent of the allocation is assigned to the A season (14,874 mt) and 40 percent to the B season (9,916 mt). The overall 2002 TAC set in the Central Gulf is about 10 percent lower than the 2001 harvest. In the Central GOA, approximately 15 percent of the 27,297 mt of cod taken during the 2001 fishery was harvested using pot gear. About 86 percent of the Central GOA pot cod harvests came from the inshore allocation, and the remaining 14 percent was harvested by vessels defined as offshore.

The pot/jig and longline cod fisheries opened on January 1st and closed March 4th (note that the BS *C. opilio* fishery opened on January 15th and closed on February 14th). The trawl cod fishery opened on January 20th, and also closed on March 4th. All gear types were allowed to resume fishing Pacific cod on September 1st. The longline fishery closed on September 4th and the trawl fishery closed September 5th. Vessels using pot/jig gear were allowed to continue fishing the remainder of the year.

In 2000, the BS *C. opilio* fishery was delayed until April 1st and closed on April 8th, so the GOA cod fishery did not overlap with the BS *C. opilio* fishery. Pot vessels harvested over 38 percent of the Central Gulf TAC in that year. That percentage of the harvest is fairly close to the 36 percent harvested in 1999, the year the

Council considered the allocation split among the BSAI Pacific cod fixed gear sector. However it is much higher than either the 15 percent pot vessels harvested in 2001, the 21 percent harvested in 1998, or the 18 percent harvested in 1997. From this information it could be conjectured that rationalization of the BS *C. opilio* fishery could have spillover impacts in the Central Gulf cod fishery. Increases in Pacific cod catch suggest that the pot fleet has already stepped up participation in the Central Gulf cod fishery. The decline in the BSAI crab stocks along with the fixed gear Pacific cod rationalization in the BSAI have likely motivated these increases in cod harvests.

During the 1995-2000 fishing years, an average of 27 vessels that appear to qualify for the crab rationalization program participated in the Central Gulf Pacific cod fishery. Those vessels harvested an average of 9.4 percent of the fish retained in the Central GOA Pacific cod fishery during those years. Table 3.10-5 shows the levels of participation in the Central Gulf fisheries over that time period. The percentages show these vessels' harvest in the Central Gulf using all gear types relative to the total TAC for the area. Information from the Federal waters fisheries are only included for the Pacific cod fisheries. As can be seen from Table 3.10-2 retained catch in the Pacific cod target fishery was almost double the 1995-2000 average. Retained catch by the qualified crab vessels in other fisheries was relatively low.

Table 3.10-5: Participation of the BSAI crab rationalization vessels in the Central Gulf groundfish fisheries.

Year	Number of Vessels	Pacific cod (mt)	Pacific cod Percent of TAC	Other groundfish (mt)	Other groundfish percent of TAC
1995	37	3,652	8.0	616	0.6
1996	22	2,864	6.7	809	0.8
1997	14	1,479	3.4	1,007	0.8
1998	16	3,675	8.8	596	0.4
1999	38	4,759	11.1	168	0.1
2000	37	6,278	18.4	143	0.3
Avg. 95-00	27	3,784	9.4	557	0.5

Source: NPFMC Crab Database 2001, Version 1

Eastern Gulf In the Eastern GOA only 3 mt of cod were harvested using pot gear in 2001. Three metric tons is equal to about two percent of the total cod harvested in that area. Given that there are only two vessels that appear to qualify for the crab rationalization program that also hold a license to fish in the Eastern Gulf, that area might not be considered a serious spillover concern.

Catch of Pacific cod by vessels exempt from AFA sideboards

Because the Council is considering exemptions from the GOA Pacific cod sideboards in some of their alternatives, staff was asked to supply information on the catch history of the AFA vessels that are exempt from GOA sideboards. The catch history of those vessels is reported for the years 1995 through 2001. AFA sideboards have been in place since 2000.

Table 3.10-6 below shows that the average harvest of the exempt vessels over the 1995-2001 time period was 12.96 percent of the Central GOA inshore Pacific catch. The exempt vessels harvested the largest percentage of the total catch in 2001; that year those vessels harvested 17.8 percent of the total. However the prior year, those vessel only harvested 11.5 percent of the total. That is the second lowest percentage over the seven year period. It is not know if 2000 was low because of adjustments to fishing under the AFA, nor is it known if the increase that occurred during the second year of the AFA will continue into the future.

In the Western GOA, the harvest in both 2000 and 2001 was below the seven year average. Those vessels harvested the smallest percent of the total catch in 1999, but their was an increase in their percentage of the total harvest each year through 2001. It is not possible to determine whether that trend will continue into the future.

Table 3.10-6: Harvest of inshore Pacific cod by catcher vessels exempt from the AFA sideboards in the GOA

Year	Central GOA			Western GOA		
	AFA Exempt Vessel's Catch	Total Catch	% of Total Catch	AFA Exempt Vessel's Catch	Total Catch	% of Total Catch
1995	4,927	41,353.0	11.91%	565	18,613.0	3.04%
1996	3,597	42,213	8.52%	813	17,867	4.55%
1997	6,472	43,406	14.91%	986	22,996	4.29%
1998	4,737	38,031	12.46%	1,160	19,650	5.90%
1999	6,165	40,928	15.06%	419	20,197	2.08%
2000	3,481	30,257	11.50%	487	19,945	2.44%
2001	4,495	25,255	17.80%	370	12,461	2.97%
Grand Total	33,874	261,443	12.96%	4,800	131,729	3.64%

Source: Summarized fish ticket data supplied by AKFIN and NMFS annual catch statistics reported on the Alaska Region web site.

Fisheries Managed by the State of Alaska Should the State of Alaska wish to limit the participation of BSAI crab vessels in fisheries under their authority, they would need to do so through the BOF process. The State waters Pacific cod fishery and Gulf of Alaska crab fisheries are the most likely candidates for additional effort from these vessels. The cod fisheries may be harvested by pot and jig gear only, and some areas have vessel size restrictions (ADF&G, 2001). The State Pacific cod fisheries in the Chignik and South Alaska Peninsula areas are only open to vessels 58 feet in length and shorter. All of the vessels in the rationalization program are larger than that limit. Only 25 percent of the allocation in the Kodiak area is available to pot vessels over 58 feet in length. The State waters Pacific cod fishery in the Kodiak area is currently allotted 12.5 percent of the Central Gulf's allowable biological catch, and pot gear vessels greater than 58 feet in length are allowed to harvest 25 percent of the allotment in that area. There is no vessel size limit in the Cook Inlet and Prince William Sound areas. Vessels using pot gear are allowed to harvest 50 percent and 40 percent of the allocations in those areas, respectively. The limits on vessel sizes and pot limits that are currently in place should help to protect these fisheries from spillover impacts. However, if additional protections are needed, the BOF has the authority to modify the regulations for these fisheries.

Crab fisheries in the Gulf also fall under the Authority of the Alaska Board of Fish. When open, the quotas in those fisheries have been relatively low in recent years. The Tanner crab fishery in the Kodiak district²⁴ currently has a 30 pot limit (based on the GHF being less than 2,500,000 pounds). In the South Peninsula district, a 58 foot vessel limit precludes larger vessels from participating in the Tanner crab fishery. That limit effectively excludes the BSAI crab fleet from fishing Tanner crab in that area. Other fisheries are closed or have regulations that would limit the BSAI crab fleet's participation. Should additional regulations be required, the BOF could implement them through their process.

Korean Hair Crab and Bering Sea Golden King Crab: Participants in both the Korean hair crab fishery and the Bering Sea golden king crab fishery have expressed concern that the BSAI king and Tanner crab rationalization program will provide BSAI crab vessels with both the funds and the opportunity to enter these crab fisheries.

²⁴A total of 144 vessels harvested 516,406 pounds in 2001

The Korean Hair Crab fishery is not included under the BSAI king and Tanner crab FMP. It has historically been a very small, specialized fishery with only few participants on an annual basis. For example, during the past five years only 20 unique vessels participated, and only 8 vessels have fished 6 or more years. The Alaska Legislature placed this fishery under a vessel moratorium in 1996, with only 24 vessels qualifying. Since the moratorium, only 12 unique vessels have fished 3 or more years. The moratorium is set to expire July 1, 2003. In 2002, a law was signed that tasked the Commercial Fisheries Entry Commission (CFEC) with developing a limited entry program for Korean hair crab. CFEC is expected to have the limited entry program in place before the Korean hair crab moratorium expires. In any event, some of the current participants that qualify for the BSAI crab rationalization could increase participation at levels above their historic average. Because the BOF lacks authority to establish restrictions on vessels that qualify for a federal crab rationalization program, the Council may want to consider sideboards to protect historic participants in this fishery.

The Bering Sea (Pribilof) golden king crab fishery is considered a developing fishery and is managed under a Commissioner's permit. There is no stock assessment, and long term sustainable harvest are unknown. The few vessels that have consistently participated in this exploratory fishery are concerned that vessels qualifying for the crab rationalization program will enter their limited harvest area and disadvantaging historic participants. The current low GHJ and low pot limit may dissuade such entrance, but later BOF action could entice participation. Because the BOF lacks authority to establish restrictions on vessels that qualify for a federal crab rationalization program, the Council may wish to consider sideboard for this fishery as well.

Tendering A total of 114 of the vessels projected to qualify under the crab rationalization program currently are permitted by the Commercial Fisheries Entry Commission to operate as a tender vessel (see Table 3.10-6). No data are collected by ADF&G or NMFS on actual tendering activities. Because of the lack of data, the number of permits held is the only quantitative information available. Yet, it should be noted that various individuals have indicated that tendering is an important part of their vessel's annual activities. If the structure of tendering contracts changes as a result of the crab rationalization program, historic participants could be harmed. However, given the lack of information on this activity, the Council will need to rely primarily on public testimony when considering the impact of tendering on the fleet.

3.10.1.3 Analysis of the Council Alternatives

To address concerns related to the increase of BSAI crab vessels in other fisheries, the Council included the following options in Section 1.8.5 of its motion:

1.8.5 Sideboards

Sideboards shall be addressed through a TRAILING AMENDMENT, which shall evaluate the following options:

1. Non AFA vessels that qualify for QS in the rationalized opilio crab fisheries would be limited to their
 - a) GOA groundfish catch history excluding sablefish or
 - b) inshore pcod catch history in the GOA fisheries (with offshore pcod exempt).

The years for qualification would be the same as the qualifying period selected from 1.4.2.1.

2. Sideboard exemptions:
 1. exempt vessels from sideboards which had opilio landings in the qualifying years of:
 - Option a. <100,000 pounds
 - Option b. <70,000 pounds
 - Option c. <50,000 lbs
 - Option d. <25,000 lbs
 3. exempt vessels with more than 100, 200, or 500 tons of cod total landings in the years 95-99
 4. vessels with <10, <50 and <100 tons total groundfish landings in the qualifying period would be prohibited from participating in the GOA cod fishery.

The Council motion defines three alternatives for implementing sideboards in the GOA. The first two are contained in Section 1.8.5 - Option 1 of the Council's motion. Option 1(a) would limit non-AFA vessels that qualify for BS *C. opilio* QS to their combined percentage of the GOA groundfish fisheries during the qualifying years. The qualifying years for the BS *C. opilio* fishery are 1996-2000. Alternatively, Option 1(b) would the amount of Pacific cod that could be harvested by these same vessels from the inshore allocation to the percentage of the inshore allocation they harvested from 1996-2000. Harvests from the offshore Pacific cod allocation by vessels that qualify for BS *C. opilio* QS would not be limited under Option 1(b). Finally, Option 4 would prohibit vessels that landed less than 10, 50, or 100 metric tons of groundfish in the GOA during the qualifying period from participating in the GOA cod fishery.

It is assumed that any cod harvested for bait, from the GOA, would count against the sideboard caps. Using the same logic, any cod harvested for bait in the past would be included in the caps. Vessel operators would still be free to harvest cod for bait from the BSAI, if they are eligible to fish cod in that area and there is TAC available.

None of the BSAI crab vessels that qualify to fish in the Eastern Gulf had groundfish landings in that area between 1996 and 2000. Therefore, no tables are constructed for the Eastern Gulf since the sideboards in that area would be zero for all the options under consideration. In the other areas of the GOA, tables were constructed based on the catch of LLP qualified vessels that also appear to qualify for BS *C. opilio* QS based on the Council's preferred alternative. Some vessels that appear to qualify for BS *C. opilio* QS but do not hold the appropriate groundfish license/endorsements also had GOA groundfish landings. Those landings were excluded from the calculations used to derive the tables. The intent of these options is to allow GOA qualified vessels the opportunity to maintain their historic harvest levels. Including the catch of unqualified vessels in the sideboard calculation would have allow qualified vessels to increase their individual harvests from historic levels.

In the Western Gulf, a total of 41 qualified vessels²⁵ had 10,414 mt of retained groundfish landings (excluding sablefish) during the qualifying period. Pacific cod from the inshore allocation accounted for 10,342 mt of these harvests. Other groundfish accounted for the remaining 72 mt. These catch levels would

²⁵ This includes only vessels that are qualified under the groundfish LLP to fish in the Western Gulf, that are not AFA eligible, and would qualify to be receive BS *C. opilio* QS.

yield inshore Pacific cod sideboards of 10.28 percent of the total TAC and sideboards for all other groundfish combined set of 0.04 percent of the total TAC for those species. Given these levels, NMFS is unlikely to open a directed fishery any fishery other than the inshore Pacific cod fishery for the vessels operating under these sideboard caps.

Table 3.10-7: Catch History of LLP qualified (Option 1) vessels in the Western Gulf (1996-2000).

	Total Groundfish	Sablefish	Inshore Pacific Cod	Groundfish (less Sablefish)	Other Groundfish
Number of Vessels with landings ¹	41	2	41	41	13
Sideboarded Vessel's Harvest (mt)	*	*	10,342	10,414	72
Harvest of all Vessels (mt)			100,655	263,065	162,410
Percent of Total Harvest			10.28%	3.96%	0.04%

Sources: NPFMC Crab Database 2001, Version 1 and NMFS annual harvest reports from the web (as of August 28, 2002) for the years 1995-2000 (e.g., www.fakr.noaa.gov/1995/goa95b.txt).

1/ A total of 60 BS *C. Opilio* qualified vessels that would be allowed to fish in the Western Gulf area if no sideboards are in place.

In the Central Gulf of Alaska a total of 36 qualified vessels made groundfish landings (excluding sablefish) totaling 20,103 mt. Thirty-eight of those vessels had inshore Pacific cod landings totaling 20,022 mt. Given these harvest levels the BS *C. opilio* fleet would have sideboard caps of 10.27 percent of the inshore Pacific cod fishery and 0.02 percent of the combined other groundfish fisheries. As in the Western Gulf, it is likely that NMFS would open a directed fishery only for inshore Pacific cod for these vessels.

Table 3.10-8: Catch History of LLP Qualified (Option 1) vessels in the Central Gulf (1996-2000)

	Total Groundfish	Sablefish	Inshore Pacific Cod	Groundfish (less Sablefish)	Other Groundfish
Number of Vessels with landings ¹	40	15	38	36	33
Sideboarded Vessel's Harvest (mt)	20,804	674	20,022	20,103	81
Harvest all Vessels (mt)			194,835	662,300	467,465
Percent of Total Harvest			10.27%	3.04%	0.02%

Sources: NPFMC Crab Database 2001, Version 1 and NMFS annual harvest reports from the web for the years 1995-2000 (e.g., www.fakr.noaa.gov/1995/goa95b.txt).

1/ A total of 55 BS *C. Opilio* qualified vessels that would be allowed to fish in the Central Gulf area if no sideboards are in place.

Option 4 would preclude vessels that had less than 10, 50, or 100 mt of groundfish landings in the GOA during the qualifying period from participating in the GOA Pacific cod fishery. Table 3.10-9 shows the number of vessels that would be precluded from fishing by this provision and their catch in the GOA cod fishery. Catcher vessels and catcher processors are not separated in this table because there were too few catcher processors to report their landings under the confidentiality standards. The table shows the tradeoff between the thresholds under consideration. As the catch threshold is increased, vessels with larger catch histories are prohibited from fishing in the GOA. Increasing the threshold from 10mt to 100mt would result in the exclusion of an additional 14 vessels from the GOA cod fisheries. The 130 vessels that would be prohibited from participating using the 10mt threshold had only 123 mt of Pacific cod landings during the qualifying period.

Table 3.10-9: Number of vessels that would be prohibited from fishing Pacific cod in the GOA under Option 4 and their catch (in mt) in the GOA cod fisheries from 1996 to 2000.

GOA Endorsements	Number of Vessels			Catch History of Vessels					
	<10 mt	<50 mt	<100 mt	<10 mt		<50 mt		<100 mt	
				WG	CG	WG	CG	WG	CG
No Groundfish License	52	59	60	14	2	106	94	*	*
No GOA Endorsements	54	63	73	13	7	289	7	705	310
CG Only	4	4	6	*	*	*	*	*	*
WG Only	5	13	16	15	-	247	-	*	*
WG and CG	11	12	12	*	*	93	49	93	49
All GOA areas	4	4	4	0	-	0	-	0	-

Source: NPFMC Crab Database 2001, Version 1

Table 3.10-10 shows the number of BSAI vessels that would remain eligible to participate in the GOA groundfish fisheries under Option 4 and the catch history of those vessels in the qualifying period. The “Grand Total” row reports the total number of vessels that achieved the required landings to remain eligible. However, since not all of those vessels qualify for GOA endorsements under the Groundfish LLP not all the vessels would be allowed to participate in the cod fishery under current regulations. Information in the table indicates that between 35 and 36 vessels would be allowed to fish in the Central Gulf (depending on the option selected) and between 29 and 40 vessels would be allowed to participate in the Western Gulf.

Table 3.10-10: Number of vessels that would be allowed to fish Pacific cod in the GOA under Option 4 and the catch of those vessel (in mt) in the qualifying period.

GOA Endorsements	Number of Vessels			Catch History of Vessels					
	<10 mt	<50 mt	<100 mt	<10 mt		<50 mt		<100 mt	
				WG	CG	WG	CG	WG	CG
No Groundfish License	15	8	7	451	1,065	359	973	*	*
No GOA Endorsements	32	23	13	2,451	824	2,175	824	1,759	521
CG Only	19	19	18	1,203	8,789	1,203	8,789	*	*
WG Only	23	15	12	3,876	1,600	3,644	1,600	*	*
WG and CG	16	16	16	6,330	11,202	6,330	11,202	6,330	11,202
All GOA areas	1	1	1	40	-	40	-	40	-

Source: NPFMC Crab Database 2001, Version 1.

Note: * means that the catch of the one vessel that is qualified in all areas was excluded from the totals so that the total could be reported without violating confidentiality protections.

If the vessels permitted to participate under Option 4 are capped at their historic harvests during the qualifying years, those vessels would be capped at the sideboard percentages shown in Table 3.10-11. The percentages range from 9.78 percent to just over 10.25 percent. For example, if the option of <10mt was selected, the crab fleet would be capped at 10.26 percent of the Central Gulf and 10.18 percent of the Western Gulf Pacific cod TAC allocated to the inshore sector. These caps are very close to the 10.27 percent and 10.28 percent caps that would be set without eliminating the catch of vessels that are excluded from participating in the sideboard calculations. The change indicates that the vessels excluded from the fishery had a relatively small impact on the size of the sideboard cap, which is expected given that vessels with less than 10, 50, or 100 metric tons of landings were the ones excluded under this option.

Table 3.10-11: Pacific cod sideboard amounts under Option 4

Threshold	Central Gulf	Western Gulf
<10mt	10.26%	10.18%
<50mt	10.26%	9.95%
<100mt	10.26%	9.78%

Source: NPFMC Crab Database 2001, Version 1 and NMFS annual harvest reports from the web for the years 1996-2000 (e.g., www.fakr.noaa.gov/1995/goa95b.txt)

Sideboard Exemptions

Two options were also proposed that would exempt vessels from the sideboards under consideration. Option 2 in Section 1.8.5 would exempt vessels from the sideboards that had less than 25,000, 50,000, 70,000, or 100,000 pounds of *C. opilio* landings during the 1996-2000 period. The Option 3 would exempt vessels that had more than 100, 200, or 500 metric tons of Pacific cod landings during the years 1995-1999.

The language in Option 2 is not clear regarding whether it is intended to apply to a vessel's total catch of *C. opilio* during the qualifying years or if it is a vessel's average landings during the years. According to the fishticket data, seven vessels had a total of less than 100,000 pounds of landings of *C. opilio* during the 1996-2000 qualifying period and two vessels had less than 70,000 pounds. At the 100,000 pound threshold, four vessels would be exempt in the Western GOA. Those vessels had a total of 3,385mt of Pacific cod landings during that period (or approximately 37 percent of the total cod landings by BS *C. opilio* qualified vessels). Six vessels would be exempt in the Central GOA. Those vessels accounted for 7,972mt (approximately 46 percent) of the Pacific cod harvested by BS *C. Opilio* qualified boats in that area. At the 70,000 pound threshold, only 2 vessels would be exempt in the Central GOA and 1 vessel would be exempt in the Western GOA. The catch of these vessels cannot be reported for confidentiality reasons.

If the exemption is based on the average annual *C. opilio* landings of a vessel (total landings divided by 5 years), then the number of vessels that would qualify increases to between 10 and 17 vessels, depending on the option selected. The vessels at the 100,000 pound threshold accounted for 10,828 mt of Pacific cod landings in the Central GOA and 3,539 in the Western GOA during the qualifying period.

It is important to note that not all vessels meeting the BS *C. Opilio* threshold to be exempt from the GOA cod fisheries sideboards had Pacific cod landings in the areas they would be exempt. For example under the "<100,000 pound Avg." option, two of the nine vessels in the Central GOA and two of the six vessels in the Western GOA had no cod landings reported in an area they would be exempt from the cod sideboards. Therefore, it may be prudent to consider a minimum poundage requirement of Pacific cod in addition to the BS *C. Opilio* threshold. If either a 50 mt or 100 mt minimum cod requirement was selected, one vessel with some cod landings would be excluded from the Western GOA exemption, in addition to the two vessels with no landings. None the vessels with cod landings in the Central GOA had less than 100 mt of cod landings. In summary, if the Council selects this sideboard exemption as a part of their preferred alternative they may wish to (1) require a minimum level of Pacific cod activity in the Western and Central GOA and (2) make the sideboard exemptions area specific and not for the entire GOA.

Table 3.10-12: Vessels that would be exempt from sideboards under Option 2 with BS *C. opilio* landings requirements are based on either total catch or average annual catch.

Total	<100,000# Total	<70,000# Total	<50,000# Total	<25,000# Total
Central Gulf				
Number of Vessels ⁴	6	2	0	0
C. Opilio (Lbs.) ²	466,841	*	-	-
Pacific Cod (mt) ¹	7,972	*	-	-
Western Gulf				
Number of Vessels ⁴	4	1	0	0
C. Opilio (Lbs.) ²	310,985	*	-	-
Pacific Cod (mt) ¹	3,385	*	-	-
<100,000# Avg. <70,000# Avg. <50,000# Avg. <25,000# Avg.				
Central Gulf				
Number of Vessels ³	9	8	8	8
C. Opilio (Lbs.) ³	1,147,314	*	*	*
Pacific Cod (mt) ¹	10,828	*	*	*
Western Gulf				
Number of Vessels ³	7	6	6	6
C. Opilio (Lbs.) ³	991,458	*	*	*
Pacific Cod (mt) ¹	3,539	*	*	*

Source: NPFMC Crab Database 2001.

1/ Pacific cod metric tons are from those vessels that have GOA groundfish endorsements on their groundfish license.
 2/ C. Opilio pounds are for all vessels in that area. The C. Opilio catch for vessels that fished both areas is double counted. One vessel fished both the Central and Western Gulf at the 100,000 and 70,000 pound levels.

3/ There were a total of 9 vessels that would be exempt in the Western and Central GOA combined at the 100,000 pound level, 8 at 70,000, 8 at 50,000, and 8 at 25,000 pounds. Therefore all of the vessels would be exempt in the Central GOA.

4/ There are a total of 6 vessels that would be exempt at the 100,000 pound threshold, 2 vessels at the 70,000 pound threshold, no vessels at the two lowest thresholds.

* Denotes that the field was not reported because the catch of fewer than four vessels could be determined.

Option 3 would exempt vessels from sideboards that had more than a minimum amount of Pacific cod landings. The minimum levels under consideration are 100, 200, or 500 metric tons. Though not explicitly stated in the alternative, it is assumed that this applies to GOA cod landings only. Pacific cod landings from the BSAI are not included in the calculations to determine whether a vessel met the stated thresholds.

Table 3.10-13 shows that the 100mt threshold would exempt 38 of the 76 BS *C. opilio* catcher vessels with cod landings in the 1995 to 1999 time period. These 38 vessels accounted for over 95 percent of the BS *C. opilio* fleet's Pacific cod catch during that period. Increasing the minimum cod landings to 500 metric tons would exempt only nine catcher vessels. However, those nine vessels accounted for approximately 75 percent of the total cod landings of the BS *C. opilio* fleet.

Seven BS *C. opilio* catcher/processors had cod landings and were LLP qualified for GOA groundfish. Two Western GOA catcher/processors and one Central GOA catcher/processors would be exempt from cod sideboards at the 500 metric ton level threshold, two in each area at the 200 metric ton threshold, and three in the Central GOA and four in the Western GOA at the 100 metric ton threshold. The catch totals of the catcher/processors cannot be reported in most cases to protect confidential landings records.

Table 3.10-13: Vessels that would be exempt under Option 4 if only Pacific cod landings from the GOA are included in the calculation (using years 1995-99).

Catcher Vessels	> 500mt	> 200mt	> 100mt	All Cod CVs
Central Gulf				
Number of Vessels	5	17	22	38
GOA Cod (mt.)	13,168	16,137	17,705	18,678
Western Gulf				
Number of Vessels	5	10	14	39
GOA Cod (mt.)	4,825	6,249	7,053	8,092
Catcher/Processors	> 500mt	> 200mt	> 100mt	All Cod CPs
Central Gulf				
Number of Vessels	1	2	3	5
GOA Cod (mt.)	*	*	*	818
Western Gulf				
Number of Vessels	2	2	4	6
GOA Cod (mt.)	*	*	1,337	*

Source: NPFMC Crab Database 2001.

Note: The catch of catcher/processors is not reported if there are fewer than 4 vessels for confidentiality reasons.

Korean Hair Crab

The Council requested that staff analyze the economic dependence of participants in the Bering Sea Korean hair crab fishery to determine if sideboards are warranted. To illustrate this dependence two tables have been generated. The first is Table 3.10-14. It shows the participation patterns of the vessels that have fished Korean hair crab from 1991-2000. The pounds of Korean hair crab landed by these vessels are also reported in the table on an annual basis. Information in the table shows that participation has declined in recent years. More vessels participated in the early to mid 1990's than 1998 forward. In terms of years of participation, the table indicates that 24 of the vessels only fished one year (of 48 total). Five vessels fished two years, two vessels fished three years, five vessels fished four years, four vessels fished five years, two vessels fished six years, four vessels fished seven years, one vessel fished eight years, and one vessel fished nine years. No vessel fished every year from 1991-2000.

Table 3.10-15 shows the vessels participation in Korean hair crab, BSAI crab (excluding Korean hair crab), and other fish and shellfish. The table is broken out by various ranges of years. For the period 1991-2000, Korean hair crab accounted for about 6 percent of the fleet's revenues. When the period 1995-2000 was used, the dependence on Korean hair crab increased to 10 percent. Dependence decreased as more recent years were used. In the 1999-2000 period the Korean hair crab fleet only generated 4 percent of their revenues from that species.

Table 3.10-14: Participation Patterns of Vessels in the Korean Hair Crab Fishery

Vessel	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
1	-	-	-	-	-	-	-	-	-	-
2	-	-	-	-	-	-	-	-	-	-
3	-	-	-	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-	-	-	-
5	-	-	-	-	-	-	-	-	-	-
6	-	-	-	-	-	-	-	-	-	-
7	-	-	-	-	-	-	-	-	-	-
8	-	-	-	-	-	-	-	-	-	-
9	-	-	-	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	-	-	-
17	-	-	-	-	-	-	-	-	-	-
18	-	-	-	-	-	-	-	-	-	-
19	-	-	-	-	-	-	-	-	-	-
20	-	-	-	-	-	-	-	-	-	-
21	-	-	-	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-	-	-	-
23	-	-	-	-	-	-	-	-	-	-
24	-	-	-	-	-	-	-	-	-	-
25	-	-	-	-	-	-	-	-	-	-
26	-	-	-	-	-	-	-	-	-	-
27	-	-	-	-	-	-	-	-	-	-
28	-	-	-	-	-	-	-	-	-	-
29	-	-	-	-	-	-	-	-	-	-
30	-	-	-	-	-	-	-	-	-	-
31	-	-	-	-	-	-	-	-	-	-
32	-	-	-	-	-	-	-	-	-	-
33	-	-	-	-	-	-	-	-	-	-
34	-	-	-	-	-	-	-	-	-	-
35	-	-	-	-	-	-	-	-	-	-
36	-	-	-	-	-	-	-	-	-	-
37	-	-	-	-	-	-	-	-	-	-
38	-	-	-	-	-	-	-	-	-	-
39	-	-	-	-	-	-	-	-	-	-
40	-	-	-	-	-	-	-	-	-	-
41	-	-	-	-	-	-	-	-	-	-
42	-	-	-	-	-	-	-	-	-	-
43	-	-	-	-	-	-	-	-	-	-
44	-	-	-	-	-	-	-	-	-	-
45	-	-	-	-	-	-	-	-	-	-
46	-	-	-	-	-	-	-	-	-	-
47	-	-	-	-	-	-	-	-	-	-
48	-	-	-	-	-	-	-	-	-	-
Vessel	7	15	22	14	21	19	16	12	8	3
Catch	384,715	1,356,288	1,439,155	1,904,287	1,986,106	713,309	650,240	290,347	216,979	*

Source: NPFMC Crab Database 2002.

Table 3.10-15: Dependence on Korean hair crab

Time Period	Korean Hair Crab			BSAI Crab			Other Species		
	Vessels	Pounds	Value	Vessels	Pounds	Value	Vessels	Pounds	Value
1991-2000	48	8,949	\$ 23.8	46	327.28	\$ 365.2	43	100.41	\$ 26.3
1995-2000	24	3,859	\$ 10.8	23	74.11	\$ 98.2	21	43.47	\$ 10.2
1996-2000	20	1,872	\$ 5.6	19	55.80	\$ 62.5	16	32.24	\$ 7.1
1997-2000	16	1,159	\$ 3.6	16	47.43	\$ 49.5	12	7.60	\$ 2.1
1998-2000	12	0,509	\$ 1.5	12	29.29	\$ 30.4	11	5.20	\$ 1.6
1999-2000	8	0,229	\$ 0.7	8	10.88	\$ 15.3	7	3.93	\$ 1.2

Source: NPFMC Crab Database 2002.

Finally, Figure 3.10-1 shows the percent of revenue each of the 48 vessels derived from the Korean hair crab fishery between 1991 and 2000. The most dependent vessel in percentage terms generated 63 percent of its revenue in that fishery. A total of five vessels generated over 20 percent of their income from the Korean hair crab fishery, 11 vessels generated more than 10 percent, and 16 vessels generated more than 5 percent. At the other end of the spectrum, 20 vessels generated less than 1 percent of their revenue from the Korean hair crab fishery.

Assigning Sideboards to Vessels or Licenses

The final issue to be discussed in this section is how the sideboards would be applied to participants in the crab fishery. Sideboards caps in the AFA were applied to groups of vessels depending on whether they were catcher vessels or catcher/processors. The class of vessels was then assigned a sideboard cap based on the historic catch of vessels in that group. Those vessels as a group were then prohibited from exceeding their sideboard cap²⁶. An inter-cooperative agreement was developed by the catcher vessel cooperatives to help them allocate and monitor sideboard harvests. To enforce the program, NMFS determines if that group of vessels stayed within their caps.

The structure of crab rationalization is different from the AFA and may require a different allocation and enforcement policy for the program to have the desired result. Two methods are discussed in this section. Following that discussion a section describing how sideboards could be managed under cooperatives is provided. The two method of setting caps are:

1. Apply sideboards to the vessel that gave rise to the LLP license and crab quota allocation.
2. Apply sideboards to the LLP license derived from the catch history of the vessel that gave rise to crab quota under the rationalization program.

Under the crab rationalization program, crab harvest quota will be allocated to persons holding valid LLP licenses (there are also additional requirements). Therefore if the sideboards were simply linked to the vessels from whose history the license was derived (like in the AFA), the crab quota could be fished from vessels that are not operating under sideboards, and other vessels could be used to fish any amount of the other species. This could occur because it is expected that under the crab rationalization program, crab licenses would no longer be issued. LLP License holders who, after crab rationalization, continue to hold an LLP groundfish license, could continue to use that license on their vessel; however, the vessel's groundfish fishing activities would be constrained by the sideboard limitations.

²⁶Caps were calculated as a percentage of the TAC. Each year that percent of the TAC is multiplied by the TAC to determine the amount of each sideboard species that can be harvested.

Alternatively, sideboards could be attached to the groundfish license²⁷ derived from the fishing history of the vessel upon which the crab quota was earned. Applying the sideboards to the license would prevent any vessel on which the license is used from exceeding the sideboard caps. This system would have two impacts. First, if the license was not sold/moved from the original vessel, the original vessel would be limited by the sideboard caps. If the license was taken off the original vessel, that vessel would no longer be eligible to fish groundfish, unless it had access to a different license. In that case, the vessel using the original license would be operating under the sideboard caps and the crab rationalization vessel would either not be allowed to fish sideboard species, or would have a new license. The crab rationalization vessel would then be subject to any restrictions on the acquired license. In either case, any vessel using a license which generated a crab quota allocation would be operated under the sideboard restrictions. This structure would likely provide the most protection for the non-crab fishermen.

Given the above discussion the Council could consider either placing the sideboard restrictions on the vessel where the crab quota was generated or the license held by the vessel that generated the crab quota. The Council will need to determine which system best meets the objectives of their program.

Once it is determined whether the sideboards are applied to the vessel or the license, then enforcement of the sideboards in a cooperative structure can be defined. As stated earlier, under the AFA, all catcher vessels operating under sideboards were treated as a single class of vessels and the sideboard caps were assigned to that group by NMFS. It was then up to the persons in the AFA catcher vessel fleet to determine who would be allowed to catch the sideboard. That function was primarily preformed through an inter-cooperative agreement signed by the parties involved.

Crab sideboards could be treated like the AFA sideboards or at a finer level. Once the vessel or license holder is determined NMFS could either assign their sideboard caps to

1. the vessel/license holder individually,
2. the cooperative they join, or
3. the entire crab fleet operating under sideboards.

NMFS would likely prefer monitoring the caps²⁸ at a gross level since it would be fewer caps to track and monitor. Members of industry may prefer having the caps monitored at the individual or cooperative level. Individual caps would give them more freedom in utilizing the caps without going through the cooperative or some type of inter-cooperative agreement. Individual caps will be more restrictive, on the other hand, if they cannot be freely transferred²⁹. From an industry perspective, persons will need to determine whether a more bureaucratic transfer system outweighs the benefits of having an individual cap for sideboard species. From a NMFS/Council perspective, they will need to determine if the costs associated with monitoring additional caps outweigh the benefits.

It is important to remember under any of the above alternatives that the sideboards are caps and not allocations. If the vessels operating under sideboard caps do not harvest the entire cap amount before the open access fishery is closed, they would only be allowed the amount caught at the time of the closure.

²⁷The sideboard would in essence be an endorsement on the license that allows the holder to harvest up to the sideboard amount listed on the license.

²⁸NMFS will need to determine the finest level they feel the caps can effectively be enforced. If that includes all of the options in this section, then the Council could select any of those options.

²⁹Any transfer outside of the group where sideboards were assigned would need to go through the RAM division of NMFS. This is necessary to ensure that the caps are being properly tracked and counted.