

**North Pacific Fishery Management Council
February 2008
Draft Motion**

C-1 BSAI Crab Management

(a) Report of the Crab Advisory Committee

The crab advisory committee should address as their priority items (and report to the Council in April) the following technical fixes/housekeeping changes:

1. Aleutian Island golden king crab.

The Council suggests that the committee may want to, but is not limited to, consider the following:

- a. Review existing crab program requirements for Western Aleutian Islands golden king crab and Eastern Aleutian Islands golden king crab,
- b. To the extent possible, determine specifically why the Western Aleutian Islands golden king crab TAC is not being fully harvested (i.e., identify problems),
- c. Determine if identified problems are unique to Western Aleutian Islands golden king crab or apply to Eastern Aleutian Islands golden king crab, as well,
- d. Determine to the extent possible, if the recent action on custom processing will address or partially address the identified problems in the future,
- e. Review alternatives proposed,
- f. Develop a range of alternatives to address identified problem(s) including status quo. The alternatives should be developed with the goals of promoting full harvest of the TAC, maximizing the value of golden king crab; provide for community protection and/or regionalization; maintaining a sufficient number of viable processors to ensure competitive pricing; and recognize historic processing as well as historic dependency on the resource by communities and processors.

2. Emergency exemption from regionalization.

The Council recommends the committee continue to work on this issue. The committee should discuss, but may not be limited to:

- a. the efficacy and implementation issues of using subjective criteria as “unavoidable” and “all reasonable steps” – versus using set definitive conditions and/or circumstances when the exemption would apply,
- b. what region(s) would the proposed exemption apply to (all regions or a subset),
- c. if the exemption applies to more than one regions, should the criteria for the exemption be the same for all regions, and
- d. potential complexities of the redistribution of taxes. Discuss including an option regarding raw fish tax that would accrue in part or in whole to the city where the crab is actually landed via the exemption.

3. Crew participation.

The Council recommends the committee should continue to work on proposals with the intent of providing equitable access to the program and facilitating participation by crew. For all proposals, the committee should discuss the impact of an increased proportion of C shares on community, vessel owner, and processor protections.

4. Review and possible revision of the community right of first refusal (ROFR).

5. Industry initiated improvements to the binding arbitration process.

Further, the Council suggests the Crab Committee examine the extent to which the Henkel proposal may address crew member concerns.

(b) Crab Data Collection

The Council recommends that staff fully complete the metadata table and that analysts complete a public review of the metadata (including meetings with the industry and public) and report back to the Council on the output of that process.

(d) Active Participation requirements for C shares

The Council directs staff to release the document for final review with the following changes/additions:

The Council has identified the following alternatives for this action:

Options for revision of active participation requirements for C share holders:

To receive an annual allocation of IFQ, a C share holder must:

Option: have participated in at least one delivery in a fishery subject to the crab rationalization program in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ.

Suboption: have received an initial allocation of C shares and participated in 30 days of State of Alaska or Alaska Federal fisheries in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ.

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that the portion of the TAC available to active C share holders is equivalent to the C share portion of the fishery as established by the Council (currently 3 percent).

A C share holder who does not meet one of the following active participation criteria will have all C share QS holdings revoked:

Option: The person must have participated in at least one delivery in one of the rationalized crab fisheries in the preceding 4-5 seasons (i.e., crab fishing years).

Suboption: The person must have received an initial allocation of C share QS and have participated in 30 days of fishing in State of Alaska or Alaska federal fisheries in the preceding 4-5 seasons (i.e.; crab fishing years).

This provision will not require individuals to divest of Quota Share until 5-10 seasons after implementation of the crab program.

Suboption: Persons who received an initial allocation of C share QS and are 60 years of age or older on the date of implementation of this amendment are exempt from active participation requirements. This exemption is limited to initially issued C share QS (i.e., not purchased QS).

Options to address current transition:

For a period of 5 or 7 years from the implementation of the program, C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historic participation), and

Option 1: received an initial allocation of C shares

Option 2: demonstrates participation in the BSAI rationalized crab fisheries during

- a. 3 of the 5 seasons or
- b. 2 of the 3 seasons

immediately preceding implementation of the crab rationalization program.

(e) Loan program terms

The Council recommends the following terms for the loan program:

- 1.) **Crew definition:** (as defined in current program) “Crew” includes any individual, other than fishery observers, working on a vessel that is engaged in fishing. This definition of crew includes skippers. For administration purposes, the Council recommends that at the time of application for a loan, the individual must hold either a valid CFEC permit card or crew license.
- 2.) **Active participation requirement (to be eligible to apply for a loan):** The Council recommends that to be eligible to apply for a loan, a person needs to qualify as crew (as defined above) AND meet the following criteria as an active participant:
 - a. be a U.S. citizen, and
 - b. have at least 150 days sea time as part of a harvesting crew in any U.S. commercial fishery, and
 - c. have made at least one delivery in a fishery subject to the crab rationalization program in two of the three years prior to application for the loan.
- 3.) **Active participation verification:** The Council recommends that the verification of past participation be demonstrated as a permit holder on a fish ticket; or in the absence of a fish ticket, vessel owner or captain verification of participation should be required.
- 4.) **“Small vessels”:** In the interest of safety and practicality, the Council recommends that “small vessels” include all vessels in the BSAI crab fisheries.
- 5.) **Individual fishery share thresholds for fishermen who fish on small vessels (i.e., all crab vessels) and/or entry level fishermen:** The Council recommends that a single threshold be established for each crab fishery and the threshold (based on the initial QS pool) will be the maximum amount of QS shares that a person may hold in that fishery upon completing purchases with the loan program (subject to the individual and collective rule).
 - a. **Bristol Bay red king crab: 0.1 percent**
 - b. **Bering Sea *C. opilio*: 0.1 percent**
 - c. **Eastern Bering Sea *C. bairdi*: 0.1 percent**
 - d. **Western Bering Sea *C. bairdi*: 0.1 percent**
 - e. **Pribilof red and blue king crab: 0.2 percent**
 - f. **St. Mathew Island blue king crab: 0.2 percent**
 - g. **Western Aleutian Island red king crab: 1.0 percent**
 - h. **Western Aleutian Island golden king crab: 1.0 percent**
 - i. **Eastern Aleutian Islands golden king crab: 1.0 percent**
- 6.) **First time purchaser by entry level fishermen:** The Council recommends that this rule should be applied independently to each crab fishery (so a person who purchased shares in only one fishery would only be considered a first time purchaser in all other fisheries).
- 7.) **Annual borrowing limit:** The Council recommends that a borrowing limit be established that would limit the total amount of funds a person could borrow in any one year. That limit would be 10 percent of the available funds in that year.
- 8.) **Continued active participation requirements:** The Council does not recommend that proof of continued active participation be required as a loan condition for the duration of the loan. The intertwining of active participation as a loan condition with IFQ allocations appears unworkable and poses loan administration difficulties. However, the Council has a proposed action that will define active participation requirements to be eligible to acquire C shares and to receive C share IFQ. This action may serve to encourage continued participation (without making it a condition of the loan program).
- 9.) **Loan preferences:** First preference shall be given to applicants who are first time purchasers.

(f) Arbitration program amendments

The Council directs staff to release this analysis for final review.

(h) Extend “cooling off” and right of first refusal for St. George

The Council directs staff to release the analysis for final review with the following modifications and additions:

Alternative 1: Status quo

Alternative 2: A processor that holds St. George IPQ is subject to a two year cooling off period and a new right of first refusal three year agreement with a starting date of October 1, 2009 – unless that processor and the community entity provide proof to NMFS that they have otherwise entered into a written contract that addresses both the cooling off period and the right of first refusal.

Alternative 3: A processor that holds St. George IPQ is subject to a one year cooling off period and a new right of first refusal three year agreement with a starting date of October 1, 2009 – unless that processor and the community entity provide proof to NMFS that they have otherwise entered into a written contract that addresses both the cooling off period and the right of first refusal.