

# North Pacific Fishery Management Council

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## MEMORANDUM

TO: Council, SSC, and AP Members

FROM: Mark Fina

DATE: September 16, 2002

SUBJECT: Captains Quota Share Committee

At its June 2002 meeting, the North Pacific Fishery Management Council (Council) directed the Council Chair to appoint an industry workgroup to develop a framework program to implement the provisions of a captains quota share program. Over the summer of 2002, the workgroup developed a set of options, including recommended options, for such a program. The options identified by the workgroup and their report are attached.

## **Options for Captains Quota Shares – (C shares)**

### 1.8.1 Options for captain and crews members:

#### **1.8.1.2 Percentage to Captain:**

1. **Initial allocation of 3% shall be awarded to qualified captains as C shares.**
  - a. **Allocation from QS pool**
  - b. Allocation is from each vessel's allocation to the skipper on the vessel

#### **1.8.1.3 Species specific:**

1. **As with vessels.**

#### **1.8.1.4 Eligibility:**

##### **Option 1**

1. A qualified captain is determined on a fishery by fishery basis by

##### **1) having at least one landing in**

- 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>
<i>2001</i>	<i>7 points</i>
<i>2000</i>	<i>7 points</i>
<i>1999</i>	<i>6 points</i>
<i>1998</i>	<i>6 points</i>
<i>1997</i>	<i>5 points</i>
<i>1996</i>	<i>5 points</i>

- 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>
<i>1-50%</i>	<i>4 points</i>
<i>51-75%</i>	<i>5 points</i>
<i>76-100%</i>	<i>6 points</i>

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

**1.8.1.5 Qualification period:**

- 1. As with vessels.**

**1.8.1.6 Distribution per captain:**

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

**Regionalization and Class A/B Designation**

**Option 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.*

#### **1.8.1.7 Transferability criteria:**

##### **1. Purchase of C QS.**

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

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

##### **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 or a maximum of 2 years over a 10 year period.**

#### **1.8.1.8 Loan program for crab QS**

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

**Loan funds shall be accessible by active participants only.**

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

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

**program to leverage additional loan funds.**

**1.8.1.9 Captain/Crew on Board requirements**

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

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

**1.8.1.10 C/P Captains**

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

- Option 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.*

**1.8.1.11 Cooperatives**

**C share holders shall be eligible to join cooperatives.**

## Report of the Captains QS Committee to the Council

### Key Aspects of the Committee's Preferred Program

- C shares are allocated from the TAC remaining after the CDQ allocation and are independent of and will not affect the 90/10 Class A/Class B harvest share split.
- C shares will not be subject to Class A type delivery restrictions and will not be subject to regional designations
- Eligibility will be based on historical and recent participation
  - Historical participation - landings in the 3 of the qualifying years
  - Recent participation – landings in 2 of the 3 most recent seasons
- Qualifying years will be the same as those used for vessel based allocations
- Limited leasing will be permitted to avoid forced divestiture in seasons with low TACs
- C shares will be transferable to only active participants
- C shares will be subject to owner on board requirements
- A loan program to support captain and crew share purchases
- Any shares purchased with funds from the loan fund will be subject to owner on board requirements during the term of the loan
- National Marine Fisheries Service (NOAA Fisheries) is requested to explore options for obtaining seed money for the program in the amount of \$250,000
- C/P captains will be allocated shares with harvest and processing privileges

Following are the options proposed by the committee for Council consideration. The committee's preferred option is bolded. After each option, the committee's rationale for the inclusion of the options and the rationale for the preferred option are provided. The committee unanimously supported not only the preferred program, but also each element of the program.

#### *1.8.1 Options for captain and crews members:*

##### **1.8.1.2 Percentage to Captain:**

- 1. Initial allocation of 3% shall be awarded to qualified captains as C shares.**
  - a. Allocation from QS pool**
  - 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 up to 3 percent of the QS awarded to any vessel available to qualified captains that fished on that vessel during the qualifying period. Option b was advanced as a means to ensure that the total allocation to each vessel would be unaffected by the program since the allocation would go to the vessel and its captains. Whether a vessel's allocation remains whole, depends on whether the captain remains with the vessel where the allocation is from.

On balance, the committee believes that the allocation of C shares from a set aside portion of the QS pool is equitable, administratively simple, and conducive to good captain/vessel owner relations, which benefit all participants in the fishery.

The option to allocate 3 percent of the QS pool to captains is supported by the committee 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, allocation of 3 percent of the QS pool is the only way to ensure that 3 percent of the total pool is allocated to captains in perpetuity. A vessel based allocation would allocate a maximum of 3 percent to captains. Landings by ineligible captains would reduce the total C share allocation from 3 percent.

The allocation of 3 percent of the QS pool to captains simplifies administration of the allocation. 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 also be more equitable since a captain's 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. Landings on unqualified vessels occur when the vessel operates on an interim permit. These landings are legal; however, if allocations are on a vessel basis the captain would not be rewarded since no vessel allocation exists.

An additional benefit of deriving the C share allocation from the QS pool is that it will help build captain/vessel owner relations. Since a captain's allocation comes from a general pool the vessel owner's allocation is not affected by the captain's allocation. Under this system a vessel owner will maximize the total number of shares fished on a vessel 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 and could damage vessel owner/captain relations. Under that system, a vessel owner's allocation would be maximized by minimizing its captain's allocation.

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.

#### **1.8.1.3 Species specific:**

##### ***1. As with vessels.***

C shares will be categorized by fishery. This is necessary for a complete allocation of harvest shares in each fishery.

#### **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>
<i>2001</i>	<i>7 points</i>
<i>2000</i>	<i>7 points</i>
<i>1999</i>	<i>6 points</i>
<i>1998</i>	<i>6 points</i>
<i>1997</i>	<i>5 points</i>
<i>1996</i>	<i>5 points</i>



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%	5 points
76-100%	6 points

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

The Council motion previously contained a single option for qualification for a C share allocation. That option contained a recency requirement for eligibility of having one landing in each of the last two seasons in a fishery. The Council received letters from a few long term captains that continue to participate stating that this rigid requirement would make them ineligible. The committee elected to add options that would reduce the recency burden. The committee also chose to add recency options for the Adak red king crab, Pribilof red and blue crab, St. Matthew blue king crab fisheries, which have been closed in recent years. The new options for the closed fisheries would require a captain to have recent landings in another BSAI crab fishery.

The committee also chose to add options to increase the requirements for historical participation by adding a requirement for landings in more than one of the vessel qualifying years.

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 are based solely on participation, which would be verified with fish tickets. The committee believed that a well-crafted point system could be a workable alternative for allocating C shares. This draft of a point system is clearly a first cut and is offered as an alternative only if the Council feels that one should be considered. The committee felt that the participation based method addresses the eligibility determination issue.

**1.8.1.5 Qualification period:**  
**1. As with vessels.**

**1.8.1.6 Distribution per captain:**

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

**Regionalization and Class A/B Designation**

**Option 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.*

The committee considered possible C share delivery designations (i.e., whether C shares should have Class A or regional delivery designations). The committee's preferred option is that the C shares have no delivery restrictions because those restrictions could substantially reduce a captain's market for using C shares (at no loss to any processor or region). Since many captains do not own vessels, captains could use their shares to obtain fair contracts for their services. Delivery restrictions could limit the ability of a captain to work on vessels that do not have shares with corresponding delivery restrictions. Since C shares are intended to be a long term asset with limited leasing, flexibility in delivery is necessary for those shares to provide captains with the contract negotiating leverage intended to be created by the shares. Since the C share allocations are a small portion of the total harvest share allocation, captains cannot feasibly make deliveries except with the vessel carrying Class A and B harvest shares. Consequently, C shares without processor or regional delivery restrictions can be expected to be landed with a similar distribution to Class A and B harvest shares. C shares will have limited leasing flexibility and ownership caps, which would prevent captains from amassing enough shares to make even a single harvest delivery. Hence, maximum delivery flexibility is needed to accommodate C share use.

If the Council favors regionalization of C shares, the committee supports alternative means of regionalization (such as Option 4) rather than attaching specific regional designations to shares.

#### **1.8.1.7 Transferability criteria:**

##### **1. Purchase of C QS.**

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

**An "active participant" is defined by participation as captain or crew in at least one**

**delivery in a crab fishery included in the rationalization program in the last 365 days as evidenced by ADF&G fish ticket or affidavit from the vessel owner.**

The committee supports the use of both eligibility criteria. Eligibility requirements for transfers should ensure that C shares are transferred only to active participants in the BSAI crab fisheries that have substantial fishing experience. C shares should be used to ensure that crew committed to these fisheries receive fair and equitable crew shares. This will enable these captains and crew to advance in the fishery. Fishers without experience in these fisheries and a minimum level of fishing experience should not be permitted to obtain C shares.

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

The committee supports leasing provisions that permit some flexibility to avoid forced divestiture of shares. This should include leasing of shares between active participants to facilitate fleet downsizing within fisheries with low TACs without forcing captains that remain active to divest.

An additional option should be considered to permit 2 years of leasing by any C share holder. This will allow C share holders the flexibility to make decisions on future participation, movement among fisheries, and exit from all fisheries at retirement. Permitting leasing could also stabilize C QS prices during periods of particularly high or low abundance. Leasing provisions should be carefully drafted to prevent abuse.

**1.8.1.8 Loan program for crab QS**

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

***Loan funds shall be accessible by active participants only.***

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

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

The committee supports the loan program. 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 committee requests that the Council direct the committee to continue to work to develop the details of the loan program.

**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.**

Options 2 and 3 were added to allow the pool of participating captains to be reduced to the same level as the participating vessel pool in each fishery. Use caps higher than ownership caps should be considered to permit leasing by individuals over the ownership cap.

- 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.

**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 committee supports maximum flexibility in the provisions affecting catcher/processors to permit captains to make the best use of C shares. The committee supports historic participation of the catcher/processor sector in the fishery and believes C share provisions should recognize and retain that historic participation.

**1.8.1.11 Cooperatives**  
***C share holders shall be eligible to join cooperatives.***

Permitting C share holders to join cooperatives is necessary to ensure that captains are able to the make the best use of their C shares.

***Binding Arbitration***

The committee supports binding arbitration and the inclusion of C shares in that process.

***Data collection***

The committee fully supports data collection and will provide assistance to that process.