

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver *CO*  
Executive Director

DATE: November 30, 2009

SUBJECT: Bering Sea and Aleutian Islands Crab Issues

ESTIMATED TIME 8 HOURS (all C-6 items)
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**ACTION REQUIRED**

- (a) Refine alternatives to amend the Bering Sea and Aleutian Island crab program
- (b) Consider an emergency rule creating an exemption from West region landing requirement for the Western Aleutian Islands golden king crab fishery, and development of amendment package defining terms of an exemption from West region landing requirements for the Western Aleutian Islands golden king crab fishery

**BACKGROUND**

- (a) Refine alternatives to amend the Bering Sea and Aleutian Island crab program

Over the course of several previous meetings, the Council had developed a purpose and need statement and alternatives to revise the Bering Sea and Aleutian Islands crab rationalization program (see Item C-6(a)(1)). To streamline the analysis of alternatives, several aspects of those alternatives could be clarified. To aid the Council in consideration of these clarifications, staff prepared a discussion paper examining these aspects of the alternatives (see Item C-6(a)(2)). The specific aspects of the program that the Council could consider clarifying are:

Alternative 2 – Conversion of owner QS (and possibly PQS) to crew QS

- 1) Define the transition periods and share conversion
- 2) Define applicable transfers, if proceeding with an alternative for conversion on transfer of QS (and PQS)
- 3) Clarify exemption of catcher processor shares from any PQS conversion option
- 4) Clarify conversion rates in the QS/PQS conversion options
- 5) Clarify that share use caps should be maintained as a percentage of the applicable pool

Alternative 3 – Preferential purchase and finance program to support crew purchase of shares

Determine the Council/NOAA Fisheries role in the proposed loan program

Alternative 4 – C share regional fishery association

Identify a process for the development of regional fishery association structure

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Component 2 – IPO thresholds

- 1) Specify the IFQ to be included in any auction of IFQ in excess of the threshold,
- 2) Identify a process for fully defining the auction system.

By clarifying these aspects of the alternatives, the Council will streamline the analysis of alternatives.

(b) Consider an emergency rule to exempt West region landing requirement for the Western Aleutian Islands golden king crab fishery and development of amendment package defining terms of exemption from West region landing requirements for the Western Aleutian Islands golden king crab fishery.

Since the second year of fishing under the Bering Sea and Aleutian Island crab rationalization program, participants in the Western Aleutian Island golden king crab fishery have expressed concern that the West region landing requirement may be unworkable in that fishery. The program requires that 50 percent of the catcher vessel Class A IFQ be landed in the area west of 174° West longitude. Under the program to date, shore-based crab processing in this region has occurred only in the community of Adak. In the first four years of the program, deliveries to the Adak plant were complicated as the operator of that plant holds few of the processor quota shares in the fishery. Despite this mismatch, holders of processor shares have largely relied on the plant in Adak for West region processing. Until this year, this reliance on a single plant may have contributed to leaving a portion of the TAC unharvested, as a limit on use of processor shares prevented the entire West region allocation being processed at a single plant. To overcome this obstacle, the Council adopted an amendment to the program exempting custom processing in the West region from the use processor share caps, which NOAA Fisheries implemented this year. Although this regulation would resolve any issue concerning the ability of the Adak plant to process all West region landings from the fishery, in August of this year, the operator of that plant filed for bankruptcy. This filing prompted participants in the fishery to assert that an exemption from the regional landing requirement should be available to address a shortage of processing capacity in the West region. To fully realize the exemption, those participants have made the following two requests:

- (1) NOAA Fisheries use an emergency rule to exempt the holders of West region designated IFQ and IPQ from that regional landing requirement for the 2009-2010 crab fishing season. They request that the exemption apply throughout the year, regardless of whether the Adak plant reopens, suggesting that it is in the interest of all parties to make deliveries and process all landings in Adak, should the plant be available. In addition, the parties assert that they have reached an agreement with the community of Adak to compensate the community for the loss of tax revenues should the landings be redirected to another location.
- (2) The Council advance for analysis an amendment to the crab program that would provide an exemption from the West region landing requirement, in the event that qualifying interested parties agree that no processing capacity is available to support those landings.

In response, the Council requested staff to prepare a discussion paper for this meeting to provide information that the Council could use to determine whether to recommend that NOAA Fisheries undertake emergency rulemaking establishing an exemption from the West region landing requirement for the current 2009-2010 crab fishing season and develop alternatives for an amendment that would allow for exemptions from the landing requirement in future years based on the agreement of qualified parties that no shoreside processor is available in the region. A copy of the discussion paper is attached (see Item C-6(b)(1)).

**North Pacific Fishery Management Council**  
**December 2008 Motion**  
**C-4 Agenda Items**

**Analysis of alternatives to revise the program**

**Purpose and need statement:**

The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program is a comprehensive approach to rationalize an overcapitalized fishery in which serious safety and conservation concerns needed to be addressed. Conservation, safety, and efficiency goals have largely been met under the program.

Experience under the BSAI Crab Rationalization Program has made apparent the need to analyze alternatives to status quo to achieve: entry-level investment opportunities for active participants

This focused analysis on entry level investment opportunities for active participants will by definition include an analysis of the A/B split through potential share conversions.

Additional flexibility under the program is needed to address some inefficiencies created through the share matching system. For example, if a PQS holder opts not to apply for IPQ, the program should allow competitive markets to determine whether resources are harvested rather than redistribute the IPQ for share matching.

Processors and communities have received protections through processor quota shares under this program since the year of implementation. Higher TACs afford an opportunity to expand competition while maintaining protection for processor investments and recognizing community dependency under an IPQ threshold.

**Alternative 1:**

No action, status quo.

**Alternative 2:**

Increase investment opportunities for active participants by increasing the proportion of C share quota in all rationalized fisheries through a market-based reallocation.

Change the 3 percent C share allocation to:

- a) 6 percent
- b) 8 percent
- c) 10 percent

**Suboption:** Applicable only to b) and c) above (increase to 8 or 10 percent), redesignated C shares will be subject to:

- 1) the A share/B share split (including regionalization)
- 2) regionalization

**Suboptions:** Use the following mechanism to achieve the increase (i and iii can be combined):

- i) A pro-rata reduction in owner shares (distributed over a period not to exceed 5, 7, or 10 years) to create C shares available for active participants to purchase. Owner share

**DRAFT**

holders who meet active participation requirements would be able to retain their converted C shares.

- ii) A percentage re-designation of owner shares to C shares at the time of each transfer. The purchasing owner is required to comply with the active participation definition or divest of the C shares.
- iii) A pro-rata reduction of PQS (distributed over a period not to exceed 5, 7, or 10 years) and conversion into C shares available for active participants to purchase through market transactions.

**PQS/QS Conversion Rate**

Each crab fishery may have a different conversion ratio. These ratios are based on rough estimates of the relative value of each PQS to CVO QS. This range could be expanded or modified based on further analysis.

- a) 1 PQS unit =- 0.5 CVO QS unit
- b) 1 PQS unit =- 0.4 CVO QS unit
- c) 1 PQS unit =- 0.3 CVO QS unit
- d) 1 PQS unit =- 0.2 CVO QS unit
- e) 1 PQS unit =- 0.1 CVO QS unit
- f) 1 PQS unit =- 0.075 CVO QS unit

**Alternative 3:**

Increase investment opportunities for active participants by establishing a preferential purchase and finance program for all share types (but no share conversion).

- 1) The Crab Advisory Committee is directed to consider the potential for a private contractual proposal to increase investment opportunities for active participants. A response and recommendations will be made to the Council.
- 2) The proposed program should address the following:
  - a. Establishing goals for an aggregate amount of QS owner shares to be held by active participants at 5, 7, and 10 years.
  - b. Identify and address any potential impacts on industry efficiency or investment and on communities.
  - c. Identify any regulatory issues that may need to be addressed, such as use and ownership caps, and provide recommendations to address these issues.

**Alternative 4:**

C share Regional Fishery Association

The committee is tasked to review proposals to form a regional fishery association (RFA) to hold and distribute C shares on behalf of RFA members.

If RFAs are established, the aggregate total of all C shares shall be:

- a) 6 percent
- b) 8 percent
- c) 10 percent.

**Component 1 (IPQ accounting when PQS holder opts not to apply)**

If a PQS holder opts not to apply for IPQ in a year, distribute harvesting quota that would have been the matching CVO IFQ A shares as open delivery B shares.

**Component 2 (Establish IPQ thresholds)**

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The amount of IPQ (individual processing quota) issued in any year shall not exceed,

**Option a)** in the *C. opilio* fishery,

- i) 26 million pounds.
- ii) 45 million pounds.
- iii) 64 million pounds.
- iv) 80 million pounds.

**Option b)** in the Bristol Bay red king crab fishery,

- i) 12 million pounds.
- ii) 15 million pounds.
- iii) 18 million pounds (status quo).

**Suboption:** Any IFQ above the threshold will be auctioned by NMFS to the highest bidder.

**North Pacific Fishery Management Council  
Bering Sea and Aleutian Islands crab fisheries  
Proposed program revisions**

At its April 2008 meeting, the Council adopted for analysis a set of alternatives to revise the crab rationalization program. Over the course of several subsequent meetings, the Council revised those alternatives to their current form. Although largely well-defined, the alternatives continue to contain some elements that could benefit from further definition prior to commencing a comprehensive analysis. This paper identifies those aspects of the alternatives that could require additional definition and suggests a possible process to provide that definition. The Council may choose to remove some of these elements without further analysis; however, any revision of the alternatives should be supported by a clearly articulated rationale.

**Purpose and need statement:**

The Council has identified the following draft purpose and need statement, which should be used to guide its selection of alternatives for analysis, as well as any selection of a preferred alternative:

*The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program is a comprehensive approach to rationalize an overcapitalized fishery in which serious safety and conservation concerns needed to be addressed. Conservation, safety, and efficiency goals have largely been met under the program.*

*Experience under the BSAI Crab Rationalization Program has made apparent the need to analyze alternatives to status quo to achieve: entry-level investment opportunities for active participants*

*This focused analysis on entry level investment opportunities for active participants will by definition include an analysis of the A/B split through potential share conversions.*

*Additional flexibility under the program is needed to address some inefficiencies created through the share matching system. For example, if a PQS holder opts not to apply for IPQ, the program should allow competitive markets to determine whether resources are harvested rather than redistribute the IPQ for share matching.*

*Processors and communities have received protections through processor quota shares under this program since the year of implementation. Higher TACs afford an opportunity to expand competition while maintaining protection for processor investments and recognizing community dependency under an IPQ threshold.*

**The Alternatives**

This section presents the Council's alternatives in their current form and discusses aspects of those alternatives that present analytical and administrative challenges without further definition.

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**Alternative 1:**

No action, status quo.

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The status quo alternative is defined by the existing management program without change.

The second alternative would increase the C share QS pool by converting owner QS (and possibly PQS) to C share QS. The alternative specifically provides:

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**Alternative 2:**

Increase investment opportunities for active participants by increasing the proportion of C share quota in all rationalized fisheries through a market-based reallocation.

Change the 3 percent C share allocation to:

- a) 6 percent
- b) 8 percent
- c) 10 percent

**Suboption:** Applicable only to b) and c) above (increase to 8 or 10 percent), redesignated C shares will be subject to:

- 1) the A share/B share split (including regionalization)
- 2) regionalization

**Suboptions:** Use the following mechanism to achieve the increase (i and iii can be combined):

- i) A pro-rata reduction in owner shares (distributed over a period not to exceed 5, 7, or 10 years) to create C shares available for active participants to purchase. Owner share holders who meet active participation requirements would be able to retain their converted C shares.
- ii) A percentage re-designation of owner shares to C shares at the time of each transfer. The purchasing owner is required to comply with the active participation definition or divest of the C shares.
- iii) A pro-rata reduction of PQS (distributed over a period not to exceed 5, 7, or 10 years) and conversion into C shares available for active participants to purchase through market transactions.

**PQS/QS Conversion Rate**

Each crab fishery may have a different conversion ratio. These ratios are based on rough estimates of the relative value of each PQS to CVO QS. This range could be expanded or modified based on further analysis.

- a) 1 PQS unit = 0.5 CVO QS unit
- b) 1 PQS unit = 0.4 CVO QS unit
- c) 1 PQS unit = 0.3 CVO QS unit
- d) 1 PQS unit = 0.2 CVO QS unit
- e) 1 PQS unit = 0.1 CVO QS unit
- f) 1 PQS unit = 0.075 CVO QS unit

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Currently, the C share QS pool is approximately 3 percent of the total QS pool (see Table 1). Alternative 2 would modify QS allocations under the program by increasing the portion of that pool made up of crew (or C share) QS by redesignating owner QS or PQS as C share QS. Once shares are redesignated as C share QS, persons would be required to meet specific participation requirements to acquire and continue to hold those C share QS.<sup>1</sup> The alternative clearly defines the change in the size of the C share pool from

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<sup>1</sup> Under the current regulations, C share QS holders must be on board the vessel harvesting the IFQ, if the IFQ are allocated to an individual. If a person joins a cooperative, that requirement does not apply. NOAA Fisheries is in the

its current level of approximately 3 percent of the QS pool to 6 percent, 8 percent, or 10 percent of the QS pool. In addition, the alternative includes options that would apply the A share/B share split and regional landing requirements to the newly created C shares after the transition. Existing C shares would not be affected. Application of these landing requirements would be intended to protect processor and regional interests that might be jeopardized by changing the percentage of the quota issued as C shares, which currently are not subject to the IPQ or regional landing requirements.

**Table 1. QS and PQS pools by fishery (2009).**

Fishery	Crew QS				Owner QS			Total QS	PQS
	Catcher Processor	Catcher Vessel	Total	Percent of QS pool	Catcher Processor	Catcher Vessel	Total		
Bristol Bay red king crab	421,731	11,578,604	12,000,335	3.0	17,698,648	372,056,035	389,753,683	401,754,018	402,030,525
Bering Sea <i>C. opilio</i>	1,774,071	28,433,661	30,207,732	3.0	88,680,471	868,333,179	977,013,650	1,007,221,382	1,002,170,260
Eastern Aleutian Island golden king crab	0	299,583	299,583	3.0	469,136	9,231,020	9,700,156	9,999,739	10,122,984
Eastern Bering Sea <i>C. bairdi</i>	493,173	5,511,025	6,004,198	3.0	13,077,248	181,569,558	194,646,806	200,651,004	199,219,226
Pribilof red and blue king crab	0	899,993	899,993	3.0	151,568	28,997,449	29,149,017	30,049,010	30,000,002
Saint Matthew Island blue king crab	0	900,007	900,007	3.0	579,116	28,823,359	29,402,475	30,302,482	29,999,998
Western Aleutian Island golden king crab	510,107	689,951	1,200,058	3.0	17,935,173	20,864,827	38,800,000	40,000,058	40,021,116
Western Aleutian Island red king crab	245,011	1,555,034	1,800,045	3.0	22,713,377	35,488,037	58,201,414	60,001,459	60,031,674
Western Bering Sea <i>C. bairdi</i>	493,173	5,511,025	6,004,198	3.0	13,077,248	181,569,558	194,646,806	200,651,004	199,219,226

Source: NMFS Restricted Access Management (2009).

The alternative also defines three potential means of making the modification to the C share QS pool. Under the first, owner QS would be converted to C share QS on one or more specified times. **The motion provides for the transition to occur over 5 years, 7 years, or 10 years. Further definition of the transition would aid the analysis.** First, the motion should define not only the transition period, but the amount of shares that would be converted at any time. For example, the motion could provide that the transition occurs by converting equal amount of shares in each year of the transition period. Alternatively, the transition could occur in some subset of years (i.e., equal portions would be converted in the 1<sup>st</sup>, 3<sup>rd</sup>, and 5<sup>th</sup> years of a 5 year transition period). Limiting the number of years in which shares are converted could simplify administration of the transition. On the other hand, conversion of a large portion of the owner QS pool at one time may saturate the market, depressing the price of C share QS (including the price of the converted QS).

Under the second option, a portion of any owner QS that is transferred would be converted to C share QS at the time of transfer. A few aspects of this provision should be considered in advancing it for analysis. If the Council's intent is to apply the conversion to all owner QS equally, with the conversion only being effected at the time of transfer, it should be noted that the transition may take several years to complete. If the Council applies the conversion to any owner QS that are transferred, regardless of whether those shares had previously been transferred, the provision would disproportionately affect those persons who transfer their QS. In either case, any owner QS that is held by a corporation could be retained in that corporate name (despite underlying corporate ownership changes) to avoid redesignation. The Council could consider adoption of a rule to redesignate QS at the time of ownership changes, but any such measure would likely increase administrative complexity, as the specific QS to which the redesignation would need to be identified, and require participants to provide ownership data on a regular basis. **If the Council wishes to proceed with a provision for redesignation on transfer, it will need to further define the redesignation mechanics.**

Under the third option, a portion of the PQS pool would be converted to C share QS at one or more specified times, in a manner similar to the QS conversion under the first option. This alternative differs from the first, in that the pool of QS would be increased, while simultaneously decreasing the PQS pool. The rationale for converting PQS to C share QS is that C share IFQ are not currently subject to the IPQ

process of implementing a Council action to modify C share QS active participation requirements. Once implemented, the new regulations will require all C share QS holders to meet a minimum participation requirement in the fisheries to receive annual allocations of IFQ (at least one landing every 3 years) and maintain C share QS holdings (at least one landing every 4 years).



landing requirements (i.e., the A share/B share split). Consequently, increasing the allocation of C share IPQ effectively reduces the percentage of the TAC that is subject to IPQ landing requirements. Conversion of PQS to C share QS would provide compensation to PQS holders for the loss of IPQ that arises from increasing the C share QS pool.

As written, the motion suggests that the increase in C share QS could come from either owner QS conversion or PQS conversion. The motion also includes an option that would mitigate impacts to owner QS holders and PQS holders by converting both share types to C share QS by combining the two options. The motion also suggests a range of PQS/owner QS conversion rates, which, when considered in conjunction with the change in the C share QS pool, would effectively define the level of compensation to PQS holders.

The motion is unclear concerning the affect of PQS conversion on the distribution of QS between the catcher vessel and catcher processor sectors. The Council should clarify the intended effect of that interaction. **If the Council wishes to proceed with a conversion to C shares QS that will not affect the distribution of shares between the sectors, it could include a provision stating that “For catcher processor QS, the creation of C share QS will be achieved strictly by the conversion of catcher processor owner QS to catcher processor C share QS.”** Assuming that the Council takes this approach, regional delivery requirements and A share/B share split would not apply, as those requirements do not apply to catcher processor shares. If the Council intends to change the distribution of shares between the sectors, it should more specifically identify the redistribution.

To understand the conversion, it is helpful to consider examples. Each of the following examples assumes that the Council intends to leave the catcher processor share of the fishery unchanged. Under the first option, the redesignation of owner QS as C share QS would be undertaken without compensation to PQS holders. To make a three percent increase in C share QS (to 6 percent total):

- 1) 3 percent of the total catcher processor QS pool would be converted from catcher processor owner QS to catcher processor crew QS,
- 2) 3 percent of the total catcher vessel QS pool would be converted from catcher vessel owner QS to catcher processor crew QS, and
- 3) Reduction in the PQS pool proportional to the reduction in catcher vessel owner QS (see Table 2).<sup>2</sup>

**Table 2. Conversion of 3 percent of the owner QS pool to C share QS and proportional reduction in PQS (without compensation to PQS holders).**

Fishery	Catcher processor QS conversion			Catcher vessel QS conversion			PQS	
	Starting crew QS	Starting owner QS	Owner QS converted to crew QS	Starting crew QS	Starting owner QS	Owner QS converted to crew QS	Current pool	Reduction proportional to catcher vessel owner QS reduction
Bristol Bay red king crab	421,731	17,698,648	543,611	11,578,604	372,055,035	11,509,009	402,030,525	12,436,260
Bering Sea <i>C. opilio</i>	1,774,071	88,680,471	2,713,636	28,433,661	888,333,179	27,503,005	1,002,170,260	31,027,428
Eastern Aleutian Island golden king crab	0	469,136	14,074	299,583	9,231,020	285,918	10,122,984	313,545
Eastern Bering Sea <i>C. bairdi</i>	493,173	13,077,248	407,113	5,511,025	181,569,558	5,612,417	199,219,226	6,157,979
Pribilof red and blue king crab	0	151,568	4,547	899,993	28,997,449	896,923	30,000,002	927,933
Saint Matthew Island blue king crab	0	579,116	17,373	900,007	28,823,359	891,701	29,999,998	928,102
Western Aleutian Island golden king crab	510,107	17,935,173	553,358	689,951	20,864,827	646,643	40,021,116	1,240,336
Western Aleutian Island red king crab	245,011	22,713,377	688,752	1,555,034	35,488,037	1,111,292	60,031,674	1,879,865
Western Bering Sea <i>C. bairdi</i>	493,173	13,077,248	407,113	5,511,025	181,569,558	5,612,417	199,219,226	6,157,979

Note: Increases catcher processor C share QS and catcher vessel owner QS by 3 percent their respective pools and decreases PQS by 3 percent of the existing PQS pool. Changes would be proportionally distributed among share holders. Source: NMFS RAM data

<sup>2</sup> This modification is not necessary to achieve the IPQ allocation outcome sought, but is included to illustrate the change in IPQ allocations that would arise under this alternative.

The conversion to C shares becomes slightly more complicated, if the Council includes PQS conversion to compensate processors for the loss of annual IPQ allocations (which do not currently apply to C share IFQ).<sup>3</sup> As currently set out in the motion, various rates of conversion between PQS and catcher vessel owner QS would define the compensation. This method of defining compensation introduces a few complicating factors. First, the conversion rates would affect each fishery slightly differently, as the relative sizes of the catcher vessel QS, catcher processor QS, and PQS pools vary across fisheries. Second, the conversion defines a transition from PQS to owner QS (not C share QS). It is assumed that all of that owner QS would be converted to C share QS. If the Council intends to convert PQS to owner QS and then convert only a portion of that owner QS to C share QS, it should clarify its intent. Third, this conversion would increase the QS pool, which would require further adjustments to the other segments of the QS pool (i.e., catcher processor owner and crew QS and catcher vessel crew QS) to maintain current interests. In other words, all QS holders share holdings would need to be increased proportionally (and reissued) to maintain their existing share of the pool.

**If the Council wishes to avoid the need to specifically determine PQS to catcher vessel QS conversion rates for the various fisheries and the additional administrative complications that arise under the existing options, it could simplify the motion by specifically defining the percentage of catcher vessel C share QS that would be created from each share type.** For example, the motion could be modified to provide that:

The new catcher vessel C share QS would be created by converting catcher vessel owner QS and PQS to catcher vessel C share QS with:

- a) 100 percent created from catcher vessel owner QS and 0 percent created from PQS;
- b) 75 percent created from catcher vessel owner QS and 25 percent created from PQS;
- c) 50 percent created from catcher vessel owner QS and 50 percent created from PQS;
- d) 25 percent created from catcher vessel owner QS and 75 percent created from PQS; or
- e) 0 percent created from catcher vessel owner QS and 100 percent created from PQS.

(While this example covers the full range identified by the current motion, the Council could revise the provision.)

Under this approach, catcher processor QS conversion would take place independent of the distribution of the conversion between catcher vessel owner QS and PQS. Catcher vessel owner QS would be decreased in the amount needed to create the desired crew QS pool. PQS would be decreased proportionally to the decrease in catcher vessel owner QS. The increase in catcher vessel crew QS would then be divided between catcher vessel owner QS holders and PQS holders, at the prescribe percentage, and then distributed within each sector in proportion to share holdings. This method allows the Council to transparently distribute the compensation between catcher vessel owner QS and PQS holders and leaves intact the interests of remaining share holders in the fisheries (i.e., catcher processor QS holders and catcher vessel crew QS holders). The Council need only specify the percentage of the QS pool that it

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<sup>3</sup> It should be noted that the need to compensate processors only arises, if the Council chooses not to apply the A share/B share split to the converted IFQ allocations from the newly created C share QS. If the Council chooses the option to apply that split (and the accompanying landing requirements) to C shares, conversion of PQS would no longer be justified.

wishes to be crew QS and the division of the distribution of the new catcher vessel crew QS between catcher vessel owner QS and PQS.

This slightly different approach allows for a more transparent estimation of the distribution of shares by: first, isolating the conversion of catcher processor QS from effects of the PQS conversion; and second, simplifying the conversion of catcher vessel owner QS and PQS to show the effects of those conversions on the different sectors. Two examples of this conversion showing only the effects on catcher vessel QS and PQS pools are shown (see Table 3 and Table 4). In both cases, the effects on the pool would be distributed within each sector (i.e., the catcher vessel owner QS holders and PQS holders) in proportion to share holdings.

**Table 3. Conversion of owner QS and PQS to increase C share QS to 6 percent of the QS pool (with 75 percent from catcher vessel owner QS and 25 percent from PQS).**

3 percent increase in C shares - 75 percent catcher vessel owner QS and 25 percent PQS

	Current CV crew QS pool	Current CV owner QS pool	CV owner QS removed	CV crew QS issued to CV owner QS holders	Remaining owner CV QS	Current PQS pool	PQS removed	CV crew QS issued to PQS holders	Remaining PQS
Bristol Bay red king crab	11,578,604	372,055,035	11,509,009	8,631,757	360,546,026	402,030,525	12,436,260	2,877,252	389,594,265
Bering Sea <i>C. opilio</i>	28,433,661	888,333,179	27,503,005	20,627,254	860,830,174	1,002,170,260	31,027,428	6,875,751	971,142,832
Eastern Aleutian Island golden king crab	299,583	9,231,020	285,918	214,439	8,945,102	10,122,984	313,545	71,480	9,809,439
Eastern Bering Sea <i>C. bairdi</i>	5,511,025	181,569,558	5,612,417	4,209,313	175,957,141	199,219,226	6,157,979	1,403,104	193,061,247
Pribilof red and blue king crab	899,993	28,997,449	896,923	672,692	28,100,526	30,000,002	927,933	224,231	29,072,069
Saint Matthew Island blue king crab	900,007	28,823,359	891,701	668,776	27,931,658	29,999,998	928,102	222,925	29,071,896
Western Aleutian Island golden king crab	689,951	20,864,827	646,643	484,983	20,218,184	40,021,116	1,240,338	161,661	38,780,780
Western Aleutian Island red king crab	1,555,034	35,488,037	1,111,292	833,469	34,376,745	60,031,674	1,879,865	277,823	58,151,809
Western Bering Sea <i>C. bairdi</i>	5,511,025	181,569,558	5,612,417	4,209,313	175,957,141	199,219,226	6,157,979	1,403,104	193,061,247

Source: NMFS RAM data

**Table 4. Conversion of owner QS and PQS to increase C share QS to 8 percent of the QS pool (with 50 percent from catcher vessel owner QS and 50 percent from PQS).**

5 percent increase in C shares - 50 percent catcher vessel owner QS and 50 percent PQS

	Current CV crew QS pool	Current CV owner QS pool	CV owner QS removed	CV crew QS issued to CV owner QS holders	Remaining owner CV QS	Current PQS pool	PQS removed	CV crew QS issued to PQS holders	Remaining PQS
Bristol Bay red king crab	11,578,604	372,055,035	19,181,682	9,590,841	352,873,353	402,030,525	20,727,099	9,590,841	381,303,426
Bering Sea <i>C. opilio</i>	28,433,661	888,333,179	45,838,342	22,919,171	842,494,837	1,002,170,260	51,712,380	22,919,171	950,457,880
Eastern Aleutian Island golden king crab	299,583	9,231,020	476,530	238,265	8,754,490	10,122,984	522,576	238,265	9,600,408
Eastern Bering Sea <i>C. bairdi</i>	5,511,025	181,569,558	9,354,029	4,677,015	172,215,529	199,219,226	10,263,298	4,677,015	188,955,928
Pribilof red and blue king crab	899,993	28,997,449	1,494,872	747,436	27,502,577	30,000,002	1,546,556	747,436	28,453,446
Saint Matthew Island blue king crab	900,007	28,823,359	1,486,168	743,064	27,337,191	29,999,998	1,546,837	743,064	28,453,161
Western Aleutian Island golden king crab	689,951	20,864,827	1,077,739	538,869	19,787,088	40,021,116	2,067,226	538,869	37,953,890
Western Aleutian Island red king crab	1,555,034	35,488,037	1,852,154	926,077	33,635,883	60,031,674	3,133,109	926,077	56,898,565
Western Bering Sea <i>C. bairdi</i>	5,511,025	181,569,558	9,354,029	4,677,015	172,215,529	199,219,226	10,263,298	4,677,015	188,955,928

Source: NMFS RAM data

An additional concern that should be addressed under these alternatives is whether share caps should be adjusted. Since share caps in regulations are currently a specific number of shares, a change in the number of shares in the QS pool will affect the percentage of the pool represented by the cap. For example, in a fishery with a 10 percent share cap, if 5 percent of the owner shares are converted to C shares and the share cap is not adjusted the cap would effectively rise to approximately 10.5 percent. **The Council should indicate whether it intends to maintain the current share caps, as a percentage of the pool.**

The third alternative is intended to create a private finance program to increase investment opportunity in the fisheries for active participants in the fishery.

**Alternative 3:**

Increase investment opportunities for active participants by establishing a preferential purchase and finance program for all share types (but no share conversion).

- 1) The Crab Advisory Committee is directed to consider the potential for a private contractual proposal to increase investment opportunities for active participants. A response and recommendations will be made to the Council.
- 2) The proposed program should address the following:
  - a. Establishing goals for an aggregate amount of QS owner shares to be held by active participants at 5, 7, and 10 years.
  - b. Identify and address any potential impacts on industry efficiency or investment and on communities.
  - c. Identify any regulatory issues that may need to be addressed, such as use and ownership caps, and provide recommendations to address these issues.

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When considered by the Crab Advisory Committee, at its January 2009 meeting, the committee failed to advance any specific proposal under this alternative, as members (including those supporting the program) suggested that such a loan may not have been feasible at that time, as loan terms were not favorable. The committee also suggested that individual share holders may be positioned to assist their crews with financing, avoiding the loss of autonomy and administrative costs that might be associated with a broader lending program. On receiving the committee's report at its February 2009 meeting, the Council took no action to remove or revise this alternative.

Should the Council wish to advance this alternative, it would need additional definition. First, the Council would need to determine whether it might have any role in this loan program. The Council's authority for the development of loan programs is defined by the Magnuson Stevens Act (MSA). Under the MSA, the Council has authority to submit a program that reserves up to 25 percent of the fees collected under cost recovery to develop a loan program for small vessel fishermen and first-time purchasers of shares. The Council has included such a loan program in the crab program. Given the Council's previous action to establish a federal loan program and the private nature of the loan program proposed by this alternative, the Council's authority for and role in the development of the loan program proposed under this alternative is not clear.<sup>4</sup>

The fourth alternative proposes a regional fishery association (RFA) for the benefit of crew. The alternative specifically provides:

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**Alternative 4:**

C share Regional Fishery Association

The committee is tasked to review proposals to form a regional fishery association (RFA) to hold and distribute C shares on behalf of RFA members.

If RFAs are established, the aggregate total of all C shares shall be:

- a) 6 percent
- b) 8 percent
- c) 10 percent.

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The MSA defines an RFA as an association formed for the mutual benefit of its members to meet social and economic needs in a region or subregion comprised of persons engaging in the harvest or processing of fish or persons owning or operating businesses substantially dependent on a fishery. The MSA provides that RFAs are required to meet criteria developed by the Council, consist of QS holders, and develop and submit a regional fishery association plan for Council and Secretarial approval based on criteria developed by the Council. To this end, the MSA requires that participation criteria be developed

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<sup>4</sup> Although the Council may have no role in development of this program, if successful, the program could be relevant to future Council decisionmaking in the fishery.

by the Council. These criteria must consider traditional fishing or processing practices in, and dependence on, the fishery, the cultural and social framework of the fishery, economic barriers to access, the existence and severity of impacts of the rationalization program on harvesters, captains, crew, processors, and dependent businesses, the administrative and fiduciary soundness of the association, and the expected effectiveness, operational transparency, and equitability of the fishery association plan. If the Council wishes to proceed with this alternative, it will need to undertake the process of developing participation criteria for RFAs (including criteria for RFA plans). The Council could pursue development of these criteria either directly over the course of future Council meetings or through its advisory committee. In absence of further development, staff cannot advance the analysis of this alternative.

In addition to the specific alternatives, the Council motion includes two components for consideration. The first component would modify allocations of IFQ and IPQ in the event that a PQS holder fails to apply for IPQ. The component specifically provides:

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**Component 1 (IPQ accounting when PQS holder opts not to apply)**

If a PQS holder opts not to apply for IPQ in a year, distribute harvesting quota that would have been the matching CVO IFQ A shares as open delivery B shares.

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Under the current regulations, the IPQ pool is allocated to PQS holders who apply for IPQ in proportion to their PQS holdings. If a PQS holder elects (or fails) to apply for IPQ, the IPQ that would have been allocated to that PQS holder allocate to PQS holders who apply for IPQ, in proportion to their PQS holdings. Since the quantity of IPQ issued are not affected by the failure of a PQS holder to apply for an allocation, the allocation of IFQ are unaffected (maintaining the 90/10 A share/B share split for catcher vessel owner IFQ).

This component would modify the annual allocations when a PQS holder fails to apply for IPQ by withholding those IPQ and issuing a larger share of the catcher vessel owner IFQ as B shares, which are not subject to IPQ or regional landing requirements. As written, the component would eliminate both the IPQ and regional landing requirements from the portion of the IFQ allocation reclassified as B shares. No clarification of this component is necessary to proceed with its analysis.

The second component would modify the current IPQ thresholds that limit the amount of IPQ allocated in the Bering Sea *C. opilio* fishery and Bristol Bay red king crab fisheries in any year. The component specifically provides:

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**Component 2 (Establish IPQ thresholds)**

The amount of IPQ (individual processing quota) issued in any year shall not exceed,

**Option a) in the *C. opilio* fishery,**

- i) 26 million pounds.
- ii) 45 million pounds.
- iii) 64 million pounds.
- iv) 80 million pounds.

**Option b) in the Bristol Bay red king crab fishery,**

- i) 12 million pounds.

- ii) 15 million pounds.
- iii) 18 million pounds (status quo).

**Suboption:** Any IFQ above the threshold will be auctioned by NMFS to the highest bidder.

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Currently, regulations limit the annual allocations of IPQ to 157.5 million pounds in the Bering Sea *C. opilio* fishery and 18 million pounds in the Bristol Bay red king crab fishery. These allocations are reached when the overall TAC (including CDQ allocations) reaches approximately 226.8 million pounds and 21.6 million pounds, respectively. The options proposed under this component would reduce the threshold in the Bering Sea *C. opilio* fishery to between approximately one-half and one-sixth its current level. Options modifying the threshold in the Bristol Bay red king crab fishery would reduce the threshold in that fishery to between two-thirds and five-sixths of its current level. No clarification of the options is necessary to proceed with their analysis.

The component includes an option that would provide for the auction of any IFQ above the threshold. The Council should clarify the exact IFQ that would be subject to the auction provision. For example, the auctioned IFQ could be limited to:

- 1) owner IFQ (excluding crew IFQ),
- 2) catcher vessel owner IFQ (excluding crew IFQ and catcher processor IFQ), or
- 3) catcher vessel owner IFQ that would have been issued as A share IFQ in the absence of the threshold (excluding crew IFQ, catcher processor IFQ, and ten percent of the catcher vessel owner IFQ (that would be issued as B share IFQ in the absence of the threshold)).

To provide for the analysis of this option, the IFQ subject to auction will need to be clearly identified.

Several aspects of this option will need further definition to proceed with the analysis. A variety of auction mechanisms could be used considered. For example, auctions can be open or sealed bid. Auctions can be ascending, with bids increasing, or descending, with the auctioneer announcing prices in descending order with the winner being the first to bid. The merits of these auctions differ depending on the nature of the item being auctioned and the bidders. If the Council wishes to proceed with this action, staff could prepare a discussion paper describing a variety of auction types that could be considered and their relative merits.

In addition to the selecting an auction type, the Council will also need to consider the nature of the auction being proposed. TACs in these fisheries are typically announced within a week or two of the fishery opening. This timing may complicate administration of an auction after the TAC announcement. A few approaches to an auction could be explored. First, it is possible that auctions could be conducted prior to the TAC announcements with all purchases contingent on the TAC. In other words, bidders could place bids on amounts of IFQ at specific prices. Bids could be ranked, with IFQ awards contingent on the TAC level. IFQ would be awarded only to bidders that win on IFQ that are below the TAC. This method of auctioning could be problematic, as bids could be affected by the TAC size. While participants are likely to have some perspective on the TAC prior to its announcement, the exact TAC size would not be known until its announcement.

An alternative would be to schedule the auctions after the TAC announcement. Interested parties could be required to register to participate in the auction prior to the TAC announcement to simplify administration. The auction could be conducted within a day or two of the TAC announcement (possibly

online). Auction winners could be announced immediately and IFQ issued. This approach might be preferable, as bidders would know the TAC at the time of bidding. A shortcoming of this method is that the auction would be conducted only a few days before fishing begins in the Bristol Bay red king crab fishery. If the amount of IFQ auctioned is large, winners may have little time to gear up for the upcoming season. Further discussion of the potential interaction of auction mechanisms and the timing of the auction could be provided in a discussion paper of this issue, should the Council elect to pursue this option.

In addition to the structure of the auction, several other aspects of the auction system would need to be considered. Payment mechanisms would need to be developed, as well as other administrative aspects of the auction and IFQ distribution. Further development of these issues could be provided in a subsequent discussion paper, if the Council elects to proceed with this option. Given the complexity of the development of an auction for IFQ, the Council should anticipate that fully developing this option will require discussion at a series of meeting. In addition, implementation by NOAA Fisheries would likely require an extended period.

**Western Aleutian Islands golden king crab fishery  
North Pacific Fishery Management Council  
December 2009**

Since the second year of fishing under the Bering Sea and Aleutian Island crab rationalization program, participants in the Western Aleutian Island golden king crab fishery have voiced concerns with a mismatch of processor share holdings and processing capacity in the West region of that fishery. Specifically, the program requires that 50 percent of the catcher vessel Class A IFQ (or approximately 24 percent of the non-CDQ TAC) be landed in the area west of 174° West longitude (the West region). Under the program to date, shore-based crab processing in this region has occurred only in the community of Adak. In the first four years of the program, deliveries to the Adak plant were complicated as the operator of that plant holds few of the processor quota shares in the fishery. Despite this mismatch, holders of processor shares have largely relied on the plant in Adak for West region processing. Until this year, this reliance on a single plant may have contributed to leaving a portion of the TAC unharvested, as a limit on use of processor shares prevented the entire West region allocation being processed at a single plant. To overcome this obstacle, the Council adopted an amendment to the program exempting custom processing in the West region from the use processor share caps, which NOAA Fisheries implemented this year.

Although this regulation would resolve any issue concerning the ability of the Adak plant to process all West region landings from the fishery, in August of this year, the operator of that plant filed for bankruptcy. This filing prompted participants in the fishery to assert that an exemption from the regional landing requirement should be available to address a shortage of processing capacity in the West region. To fully realize the exemption, those participants have made the following two requests:

- (1) NOAA Fisheries use an emergency rule to exempt the holders of West region designated IFQ and IPQ from that regional landing requirement for the 2009-2010 crab fishing season. They request that the exemption apply throughout the year, regardless of whether the Adak plant reopens, suggesting that it is in the interest of all parties to make deliveries and process all landings in Adak, should the plant be available. In addition, the parties assert that they have reached an agreement with the community of Adak to compensate the community for the loss of tax revenues should the landings be redirected to another location.
- (2) The Council advance for analysis an amendment to the crab program that would provide an exemption from the West region landing requirement, in the event that qualifying interested parties agree that no processing capacity is available to support those landings.

This paper discusses both requests. The paper begins with a background section, intended to inform the Council concerning the conditions in the fishery in the first four years of the program. The paper then goes on to discuss the request for an emergency rule, with specific attention to the situation in Adak, as well as, some discussion of other possible processing opportunities in the West region. The paper presents the criteria for use of emergency rules and the effect of a Council votes in support of such a rule. The last section of the paper outlines possible elements for an amendment that would allow for exemption based on the application of interested parties, as suggested by participants in the fishery.

Based on this paper the Council could choose whether to support the request for use of an emergency rule exempting the IFQ and IPQ holders from West region landing requirements for this year. The Council could also choose to advance an amendment for analysis that would establish criteria under which interested parties may apply for an exemption on an ongoing basis. This amendment would be intended to



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allow the regional exemption should processing capacity be unavailable in the West region in future years.

**Background**

Prior to implementation of the rationalization program, the crab fisheries were managed under the License Limitation Program (LLP). Under that program, 28 licenses carried endorsements authorizing participation in the Aleutian Islands golden king crab fisheries (including the Western fishery). Despite a relatively constant TAC leading up to implementation of the rationalization program, the license limits were not constraining and the fishery did not attract the level of competition of other crab fisheries (see Table 1). The fishery's small TAC and distant and relatively limited grounds are believed to have been an effective deterrent to entry to those qualified under the LLP.

**Table 1. TACs, catches, and participation by operation type in the Western Aleutian Islands golden king crab fishery (2000/1 through 2007/8 seasons).**

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Season	TAC	Catch	Percent of TAC harvested	Number of vessels		
				catcher vessels	catcher processors	all unique vessels
2000 - 2001	2,700,000	2,902,518	107.5	11	1	12
2001 - 2002	2,700,000	2,693,221	99.7	8	1	9
2002 - 2003	2,700,000	2,605,237	96.5	5	1	6
2003 - 2004	2,700,000	2,637,161	97.7	5	1	6
2004 - 2005	2,700,000	2,639,862	97.8	5	1	6
2005 - 2006	2,430,006	2,382,468	98.0	2	1	3
2006 - 2007	2,430,005	2,002,186	82.4	2	1	3
2007 - 2008	2,430,005	2,246,040	92.4	2	1	3
2008 - 2009	2,551,500	2,252,111	88.3	2	1	8

Sources: ADFG fishtickets and NMFS RAM catch data (for 2005-2006, 2006-2007, 2007-2008, and 2008-2009)

Despite relatively low participation levels in the years leading up to implementation of the rationalization program, the fishery did exhibit signs of increased effort. Seasons progressively shortened in the few years leading up to implementation of the program (see Table 2).

**Table 2. Season opening and closings in the Western Aleutian Islands golden king crab fishery (2001/2 through 2004/5 seasons).**

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Season	Season opening	Season closing
2001 - 2002	August 15	March 30
2002 - 2003		March 8
2003 - 2004		February 2
2004 - 2005		January 3

Sources: ADFG Annual Management Report.

Under the rationalization program, quota shares were allocated based on historic activity in the fishery. With few participants, initial allocations of QS were very concentrated. Very few QS transfers have been made since the implementation of the program, so QS holdings have remained very concentrated (see Table 3).

**Table 3. Quota share holdings by share type, region, and operation type in the Western Aleutian Islands golden king crab fishery (2007-2008).**

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Share type	Share holdings by region and operation type						Across regions and operation types			
	Region/Catcher processor	QS holders	Percent of pool	Mean holding	Median holding	Maximum holding	QS holders	Mean holding	Median holding	Maximum holding
Owner Quota Shares	Undesignated	12	26.9	2.2	1.0	11.0	15	6.67	1.78	45.73
	West	8	26.9	3.4	1.2	13.5				
	Catcher processor	3	46.2	15.4	0.5	45.7				
Crew Quota Shares	Catcher vessel	7	57.5	8.2	6.3	21.7	8	12.50	7.45	41.74
	Catcher processor	2	42.5	21.3	21.3	41.7				

Source: NMFS Restricted Access Management IFQ database, crab fishing year 2007-2008.  
 Note: These share holdings data are publicly available and non-confidential.

The few QS holders in the fishery have used measures provided by the rationalization program to concentrate activity in the fishery beyond that of QS holdings. Exclusive allocations have been organized in harvest cooperatives reducing the fleet to two catcher vessels and a single catcher processor, all of which have fished only cooperative allocations. In the first three years of the program, in excess of 99 percent of the annual IFQ has been allocated to cooperatives that have formed in the fishery. In the first three years, three cooperatives formed; in the fourth year, four cooperatives were formed. Gains arising from IFQ are also suggested by the changes in pot usage, pot lifts, and catch per unit effort in the fishery (see Table 4). In the first three years of the program, the number of registered pots per vessel has increased substantially, but the number of pot lifts in the fishery has fallen. Catch per unit effort has also risen substantially, suggesting that participants' use greater numbers of pots and allowing those pots to soak for longer periods has increased catch rates.

**Table 4. Pot usage and catches in the Western Aleutian Islands golden king crab fishery (2000/1 through 2007/8).**  
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Season	Number of pots registered*	Number of pot lifts *	Lifts per registered pot*	Average catch per unit effort (crabs per pot lift)*	Pots per vessel	Pounds per pot
2000 - 2001	8,910	101,239	11.4	7	743	28.7
2001 - 2002	8,491	105,512	12.4	7	943	25.5
2002 - 2003	6,225	78,979	12.7	8	1,038	33.0
2003 - 2004	7,140	66,236	9.3	10	1,190	39.8
2004 - 2005	7,240	56,846	7.9	12	1,207	46.4
2005 - 2006	4,800	27,503	5.7	21	1,600	86.6
2006 - 2007	6,000	22,694	3.8	20	2,000	88.2
2007 - 2008	4,800	25,287	5.3	21	1,600	88.8

Sources: \*ADFG Annual Management Report and \*\*fishtickets and \*\*NMFS RAM catch data (for 2005-2006, 2006-2007, and 2007-2008)

As might be expected, since implementation of the program, catcher vessel fishing has been extended over a longer period of time (see Table 5). Substantial time periods between landings (or breaks in fishing) appear to have developed. QS holders in the fishery assert that the large spreads between the first delivery and the last deliveries in the second and third years arise largely from the lack of available processing capacity in the West region. These QS holders assert that landings during the second and third years were delayed because participants relied on the shore plant at Adak to handle processing in the West region of the fishery, rather than establishing alternative platforms to support West region landings. Prolonged negotiations concerning processing arrangements between IPQ holders and the Adak processor are said to have delayed processor availability during those two years.

**Table 5. Seasons and deliveries in the Western Aleutian Islands golden king crab fishery (2005/6 through 2007/8).**

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Season	Season opening	Date of first delivery	Date of last delivery	Season closing
2005-2006		September 6	March 25	
2006-2007	August 15	September 10	May 6	May 15
2007-2008		September 14	May 21	
2008-2009		September 15	May 12	

Source: RAM IFQ landings data

Throughout this time, the 30 percent processing share use cap has prevented any single plant from processing all of the West region IPQ deliveries. Since the beginning of the current season, the use cap exemption applicable to custom processing has removed this regulatory impediment to a single processor receiving all West region IPQ deliveries. Although the exemption is intended to resolve uncertainties concerning availability of processing capacity in the West region, the request for an emergency is premised on a continuing lack of capacity. That assertion is based on the circumstances surrounding the Adak plant.

Adak Fisheries essentially stopped processing at the plant after the 2009 Federal Pacific cod B season and shortly after the start of the State waters Pacific cod A season (mid-April). The plant is currently in 'hibernation mode,' running off of limited power. In early August 2009, a different company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy.<sup>1</sup> The company had several unpaid creditors, totaling several million dollars. The United States Bankruptcy Court for the District of Alaska (the Court) scheduled a hearing for November 9, 2009, in Anchorage, to consider the sale of the Adak plant and related assets to a new company, Adak Seafood, LLC.<sup>2</sup> The proposed sale would include Adak Fisheries' fish processing equipment and other personal property housed in a building owned by Aleut Enterprises and leased to Adak Fisheries. Adak Seafood, LLC, is a newly-formed Delaware limited liability company affiliated with Drevik International. Kjetil Solberg, former owner of Adak Fisheries, is the majority (51%) owner of the company, and Drevik owns 49%.<sup>3</sup> The offer from Adak Seafood is \$488,000, plus assumption of the debtor's entire obligation to its primary creditor, Independence Bank, of approximately \$6.7 million. The sale is to be free and clear of the claims, liens, and interests of all persons receiving notice of the motion, except Independence Bank; and the claims, liens, and interests of all such persons (excluding Independence Bank) shall attach to the sale proceeds to the same extent and in the same order of priority as existed in the underlying property.

On November 5, 2009, Aleut Enterprises, LLC, filed an objection with the Court regarding the proposed sale of Adak Fisheries. Aleut Enterprise's current lease to Adak Fisheries expires on December 31, 2009. Aleut Enterprises objected to the sale on several grounds, asserting, in part, that the terms of the Sale Application cannot be met as the Aleut Enterprises lease was terminated pre-petition. Aleut Enterprises also objected to the sale on the grounds that the lease will expire on December 31, 2009 and that the deadline for extending the lease has passed.<sup>4</sup>

The hearing for the sale of Adak Fisheries' assets was held on November 9 - 10, and on November 10, 2009, the Court approved the sale to Adak Seafood, LLC with the original terms of the offer, and

<sup>1</sup>Source: Seafoodnews.com.

<sup>2</sup>Case No. 09-00623 DMD, United States Bankruptcy Court for the District of Alaska, October 9, 2009.

<sup>3</sup>Testimony by Drevik at November 10, 2009, hearing on Case No. 09-00623 DMD.

<sup>4</sup>Aleut Enterprises, LLC's Objection to Debtor's Motion to Sell Adak Fish Plant, Case No. 09-00623 HAR, U.S. Bankruptcy Court for the District of Alaska, November 5, 2009.

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including other provisions. Please reference the order in entirety for details **(Item D-1(d)(1))**.<sup>5</sup> One provision requires that at closing, Adak Seafood shall pay \$250,000 to Aleut Enterprises, LLC, for rent due in 2009 and property damage. Adak Seafood is also required to escrow \$150,000, which is supposed to represent six months of the minimum annual rent due to Aleut Enterprises for 2010. In addition, Adak Seafood is required to pay \$13,000 to the City of Adak to satisfy sales tax obligations. Aside from the primary creditor (Independence Bank), there are several other entities whose claims and liens do not attach to the sale. These include but are not limited to the IRS, State of Alaska, the City of Adak, and Pentech Leasing.<sup>6</sup> Overall, Adak Fisheries was several millions in debt, and all but a little over \$7 million was removed through the bankruptcy proceedings, as the new company (Adak Seafood LLC) will assume the \$6.7 million owed to Independence Bank. The total sale, including the debt to Independence Bank and other various expenses, was about \$8 million. The order granting the sale notes that the only other offer or expression of interest in the plant was by Trident Seafoods Corporation, which expressed an interest in purchasing certain assets, and after adjustment for differences between two offers (Adak Seafood and Trident Seafoods), Adak Seafood's offer was millions of dollars higher. Trident Seafoods offered \$2 million for the assets of Adak Fisheries, and its offer did not include assumption of the \$6.7 million of debt owed to Independence Bank.<sup>7</sup>

Under the order, the terms of the lease of the building, from Aleut Enterprises to the new owner, Adak Seafood, stay the same. Under its terms, the current lease expires on December 31, 2009. In October, Independence Bank filed a complaint in Bankruptcy Court requesting an injunction to compel Adak Fisheries to exercise an extension of the lease and Aleut Enterprises to accept that extension.<sup>8</sup> Because the sale order specifically states that all parties reserve all rights with respect to the lease, the complaint is still before the Court. Thus, the parties must negotiate a lease for 2010 and beyond, or litigate the issue to conclusion. Given these circumstances, it remains uncertain whether a shorebased plant will be operational in Adak in the near or long-term future.

Although the disposition of the bankruptcy of Adak Fisheries has contributed to uncertainties concerning processing capacity in the West region, processing capacity in the West region has been an issue since the opening of the fishery. In the first year of the program the Adak plant and a floating processor accepted deliveries in the West region. Since then, no plant other than the Adak plant has received West region deliveries of crab. Harvesters have asserted that they have been prevented from planning fishing, as negotiations between the Adak plant operator and IPQ holders have lasted well into the season. Harvesters also did not fully harvest the IFQ in the fishery in the second, third, or fourth years of the program, arguably because of the processor share use cap constraining processing at the Adak plant and a lack of any other available processing capacity in the West region. Notwithstanding these circumstances, it is not clear that the IFQ holders have used tools provided by the program that could assist them.

No binding arbitration actions have taken place in the fishery in the first four years of the program. In the current season, IFQ holders are believed to have maintained their right to arbitrate under the lengthy season approach, but have not initiated any proceedings to date. Some harvesters have suggested that they have avoided use of the arbitration system because they believe it will be ineffective and could hurt their positions in the fishery. These participants believe that the adversarial nature of arbitration proceedings could damage relationships between the sectors in the fishery. While it is clear that the system is

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<sup>5</sup>Order Granting Debtor's Application to Sell Adak Plant Free and Clear of Liens, Case No. 09-00623 DMD, U.S. Bankruptcy Court for the District of Alaska, November 10, 2009.

<sup>6</sup>Pentech Financial Services, Inc., is the successor company to Pentek Leasing, which is a general equipment lessor for small and mid-ticket equipment.

<sup>7</sup>Memorandum Regarding Potential Acquisition, No. 09-00623 DMD, U.S. Bankruptcy Court for the District of Alaska, November 5, 2009.

<sup>8</sup>Independence Bank v. Adak Fisheries, LLC, et al., Adversary Proceeding No. 09-90031, filed October 15, 2009.

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adversarial and might stress relationships, it is unclear whether use of the system would damage relationships as contended. The system has been used effectively in other fisheries. While it has stressed relationships among participants at times, it is not believed to have had long term detrimental effects on those relationships beyond those that have arisen in other delivery disputes. In actuality, the use of the arbitration system in those other fisheries might be argued to have had a positive effect on relationships, since it has clarified expectations. In addition, it is asserted that the arbitration system may be ineffective because IPQ holders have used custom processing relationships to process landings in the region. It is clear that an arbitrator is likely to have no authority to compel a plant processing under a custom processing relationship to accept any delivery. The arbitrator is also unlikely to have authority to compel an IPQ holder to accept a delivery. Regardless of who is engaged in the physical processing of the delivery, the arbitrator's only authority is to establish a contract that binds both the IFQ holder and IPQ holder. Any failure to comply with that contract would be enforceable only through a civil action. So, an IPQ holder's failure to perform could be grounds for damages against that IPQ holder. Although the IFQ holder would have no action against the plant processing under the custom processing arrangement, it is unclear how the IFQ holder is disadvantaged, since the suit could be pursued against the IPQ holder. In addition, given the prevalence of custom processing in all fisheries under the program, it is unclear how this differs from the circumstances in any other fishery. In those other fisheries, the arbitration system has effectively protected IFQ holder interests.

### **Use of an Emergency Rule**

Section 305(c) of the Magnuson Stevens Fishery Conservation and Management Act provides authority for rule making to address an emergency or overfishing in a fishery. Under that section, the Secretary, on finding an emergency, may promulgate regulations necessary to address the emergency. Alternatively, if a Council finds an emergency exists and requests action by the Secretary by unanimous vote, the Secretary is required to promulgate rules necessary to address the emergency. A less than unanimous finding by a Council leaves it within the discretion of the Secretary of whether to take action to address the emergency.

In pursuance of this statutory authority, NOAA Fisheries issued policy guidelines to provide guidance to Regional Administrators and Councils in the development and approval of regulations to address emergencies (see NFMS Instruction 01-101-07 and 62 Federal Register 444421-2). The guidelines point out that the only prerequisite for acting is that an emergency must exist. The authority is available for several types of emergencies, including conservation, biological, economic, social, and health emergencies. Emergency rule making is intended for circumstances that are "extremely urgent" where "substantial harm to or disruption of the resource, fishery, or community would be caused in the time it would take to follow standard rulemaking procedures." The guidance cautions that, "[c]ontroversial actions with serious economic effects, except under extraordinary circumstances should be undertaken through normal notice-and-comment rulemaking." In addition, NMFS "must have an administrative record justifying the emergency regulatory action and demonstrating its compliance with the national standards." To further clarify the scope of emergencies to which this authority applies, the guidance defines an emergency as "a situation that:

- 1) results from recent, unforeseen events or recently discovered circumstances;
- 2) presents serious conservation or management problems in the fishery; and
- 3) can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rule making process."

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In addition, the guidance provides that emergency action might be justified, if, in the time that it would take to complete notice-and-comment rulemaking, damage or loss to industry participants or communities would result. Specifically, emergency rule action might be justified for economic reasons:

“to prevent significant direct economic loss or to preserve a significant economic opportunity that otherwise might be foregone.”

Any recommendation of the Council that an emergency rule be adopted should be supported by rationale meeting all three of these criteria.

To meet the first criterion, the emergency must result from recent, unforeseen events or recently discovered circumstances. At first blush, the circumstances at the Adak plant may not appear to meet this criterion. In the last few seasons, IFQ holders and IPQ holders have periodically requested that the Council intervene, as the share cap in the absence of the exemption prevented processing of the entire West region allocation at the Adak plant. In addition, the negotiation of deliveries with the Adak shore based facility were protracted and contentious, leading participants in both sectors uncertain of whether landings could be arranged prior to the season closing. Throughout this time, rumors concerning unpaid obligations led participants to question the financial stability of the plant. Despite these uncertainties, the plant ultimately accepted deliveries from the fishery in each of the first four seasons of the program. The recent bankruptcy proceeding may introduce new concerns surrounding the ability of the Adak plant to accept deliveries in the upcoming season. Should the Council wish to recommend emergency rulemaking to exempt landings from the West region landing requirement, it should build a record establishing the circumstances at Adak as recent and unforeseen or recently discovered.

The second criterion is satisfied, if the situation presents a serious conservation or management problems in the fishery. The record concerning any management problem should identify the event causing the management problem (assumedly the Adak bankruptcy) and why a seemingly private business circumstance is a management problem. In addition, the Council should articulate how the exemption from the West region delivery requirement addresses that management problem in the fishery. The Council should also explain inadequacies of actions other than emergency rulemaking for addressing the problem (such as why contracting a crab floating processor or catcher processor active in the crab fisheries is infeasible).

The third criterion requires that the benefits of emergency rulemaking removing the West region landing requirement outweighs the benefits of advance notice, public comment, and deliberative consideration of the normal rulemaking process. Specifically, the Council should detail tradeoff between the benefits of immediate relief to IFQ holders, IPQ holders, and communities relative to the value of providing greater opportunity for public comment and deliberations. Only if benefits to fishery participants and communities exceed the value of the more deliberative normal rulemaking process should emergency rulemaking be requested.

Even meeting these criteria, the Council should also build a record that identifies these circumstances as an “emergency”. The circumstances must be “extremely urgent” where “substantial harm to or disruption of the resource, fishery, or community would be caused in the time it would take to follow standard rulemaking procedures.” This substantial harm or disruption should be explicitly described. The Council should also discuss whether fishery participants could make alternative arrangements for West region deliveries prior to the end of the season to overcome the harm or disruption. The Council should also describe why this action is not a controversial action with serious economic effects (including potential effects on any potential future operator of the Adak plant).

Previous emergency rules were approved to address sudden changes in the fishery that did not provide time to implement the regulations with advance notice and public comment to address the fishery conservation concern or the specific legislative mandate. Since 1994, NMFS Alaska Region has implemented 36 emergency rules. Twenty four of these were emergency regulations, extensions of previously published emergency regulations, or corrections to previously published regulations specifically addressing Steller sea lion management measures. The justification for these emergency regulations included avoiding the likelihood of jeopardizing the continued existence of the western population of Steller sea lions and addressing adverse effects on critical habitat based on a biological opinion published in December 1998, shortly before the start of the 1999 fishing season (January 22, 1999, 64 FR 3438), responding to a court order remanding from the Western District of Washington remanding Steller sea lion reasonable and prudent alternatives (January 25, 2000, 65 FR 3892)). Ten emergency regulations specifically addressed issues related to the implementation of the AFA, most in direct response to the passage of legislation mandating that specific measures in the AFA be implemented prior to the start of a fishing season (January 26, 1999, 64 FR 3877). One emergency rule was published to address unanticipated fishing practices that resulted in the overharvest of scallops (60 FR 11054). And, one emergency rule was adopted to address non-chinook salmon bycatch levels in the Bering Sea and Aleutian Islands that substantially exceed previous two years' bycatch levels (July 12, 1994, 59 FR 35476). NMFS Alaska Region has not previously approved emergency rules based on an unharvested allocation or operational difficulties affecting a specific processing or harvesting entities or community or regional interests.<sup>9</sup>

#### **Development of an exemption from West region landing requirements**

In addition to emergency rulemaking, interested parties (including both fishery participants and community representatives) have requested that the Council proceed with an amendment package to address possible future capacity issues in the region. At the October 2009 meeting, these parties presented the Council with a draft proposal that could be used to establish the exemption (see Appendix A). If the Council elects to advance this action, it could adopt the provisions suggested by the proposal for analysis, supplemented with additional options as it believes appropriate.

In developing alternatives defining the exemption, the Council should consider that NOAA Fisheries administration of regulations that require time sensitive fact-based findings can be problematic. Typically, these determinations require not only extensive agency efforts to verify facts, but also administrative determinations and, if contested, an appeals process. Time sensitive determinations, such as findings of the absence of available processing capacity needed for approving this exemption may not be expeditiously administered by the agency.

Recognizing the potential burden of agency fact-based determinations, proponents of the exemption suggest an exemption that is administered by interested parties in the fishery. The proposal would allow for identified parties, including certain QS holders, PQS holders, shoreside processors, and municipalities to contractually agree to the exemption on an annual (or biennial) basis. Specifically, the proposal suggests that the exemption would require the consent and agreement of:

- 1) all QS holders with holdings in excess of a minimum threshold (e.g., 10 percent of the West region QS pool),

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<sup>9</sup> In the event the Council elects to recommend emergency rulemaking, the Council should consider that the rule may remain in effect for a period of not more than 180 days. Any extension may not exceed 186 days and requires public comment on the rule and that the Council advance an action to address the emergency in the long term.

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- 2) PQS holders with holdings in excess of a minimum threshold (e.g., 10 percent of the West region PQS pool),
- 3) any shoreside processor that processed in excess of a minimum threshold of West region IPQ landings in the preceding year, and
- 4) the communities of Adak and Atka.<sup>10</sup>

As proposed, the exemption would apply if the parties agree that no shoreside processing plant would be available for the processing of crab in the region for the season.<sup>11</sup> This requirement could lead to complications in administration of the exemption, particularly if a person (including one not required to be a party to the agreement) contends that processing capacity is available in the region. Such an assertion could require a NOAA Fisheries finding of the absence of an available West region processing plant, which may be difficult to establish. If the Council believes that all relevant interests are represented by the identified parties to the agreement, it could simply allow the parties to establish the exemption on an annual basis by agreement. An alternative could be to simply require that the required parties all agree to the exemption, in which case NOAA Fisheries would grant the exemption.

A few options are suggested for the timing of determinations. Under one, the exemption could be applied for, if the parties agree that a plant will not be available prior to a date certain (December 1<sup>st</sup> is suggested in the proposal). Under an option, the exemption would expire, if a plant were to open later in the season. An option could also require IFQ holders to use undesignated IFQ prior to using West region IFQ to increase the opportunity for operations in the West region. These types of factual determinations could pose challenges for administration, particularly if contested.

The proposal also includes an option for a two year exemption on agreement of the parties. Although this option may simplify administration, it is possible that it could delay the development of processing capacity in the West region, if a processor would open a plant in the second year of an exemption.

An option for community compensation could be included in the agreement. As suggested, the compensation would be a percentage of the ex vessel revenues from the landing. These are intended to allow for a limited, but effective, exemption to the regional landing requirement when processing capacity is unavailable in the West region. Although this provision could be important to protection of community interests, the provision for compensation might be best negotiated by the parties, as NOAA Fisheries authority for imposing these costs on fishery participants could be questioned.

While the suggested options could be used to tailor the exemption to limited circumstances, those provisions may also affect the ability of NOAA Fisheries to administer the exemption. Specifically, any provision that is available only if no processing capacity is available may require NOAA Fisheries to make an evidentiary finding concerning processing capacity. Such an agency finding is unlikely to be feasible inseason, as such factual determinations would require NOAA Fisheries to monitor the availability of processing capacity in the area and provide opportunities for appeals of any person contesting that determination. Given the To streamline administration of the exemption, the Council could

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<sup>10</sup> As presented to the Council initially (and in the appendix) these communities only qualify, if they supported processing in the preceding year. Testimony of proponents suggested that the communities would always be required to be a party to the contract.

<sup>11</sup> If the Council elects to maintain a requirement that no processing capacity be available in the region for the exemption to be merited, it should consider whether the presence of floating processing capacity should affect the exemption. In its recent action concerning processor share use caps, the Council elected to exempt from the use cap custom processing at a floating processor docked in a community and custom processing any floating processor in the community of Atka.



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consider a provision that would use clear criteria for identifying any required parties to an agreement to the exemption and allow those parties to establish the exemption by agreement. On filing a notice with NOAA Fisheries, the exemption would be established for a fixed period (such as a season).

Although this may be the only administerable measure for establishing an exemption, several risks could arise from this approach. For such a provision to be effective, the parties to the contract would need to be reasonable in their determination of whether to consent to the exemption. To prevent a party from denying the exemption when it might be merited, a provision that requires that parties not unreasonably withhold consent to the exemption is suggested by the industry proposal. Yet, NOAA Fisheries would likely be required to adjudicate any dispute concerning a party's denial of the exemption, which may make the exemption ineffective any time a dispute arises. Given that the exemption would likely be ineffective, if a party disputes whether it is merited, it is likely that are provision that requires that parties not unreasonably withhold consent will be ineffective. A straight forward provision simply requiring that the exemption apply only with the consent of all defined interested parties would be as effective and avoid administrative disputes that cannot be completed in a timely manner.

Applying the exemption on the agreement of the parties also creates a risk that parties might agree to the exemption when it is not merited. For example, if processing capacity were available in the West region, it is possible that the designated parties to the agreement might arrange for an exemption, if they would prefer not to use the available processing platform. This could occur if the platform is not associated with one of the identified communities, the IFQ holders and IPQ holders elect not to use the available processor, and its owner does not hold PQS needed to qualify as a party to the exemption agreement.

If the Council wishes to pursue this action, it could use the proposal from the October meeting as a starting point for alternatives. Possible options could include:

- 1) various share holdings thresholds for defining interested parties;
- 2) including as options terms that require additional agency oversight of the exemption (i.e., those that define specific circumstances when the exemption applies), including:
  - a. provisions defining the circumstances justifying the exemption,
  - b. provisions defining when the exemption could be removed mid-season, and
  - c. provisions defining compensation.

The minimum provision could simply define the parties to the exemption agreement, allowing those parties full discretion to file for the exemption. The exemption would be effective on filing an affidavit with NOAA Fisheries signed by all parties confirming that the parties have agreed to the exemption. Using this approach, the Council could define a range of alternatives for analysis, each of which can be examined to assess the feasibility and effectiveness of the proposed exemption.

AGENDA C-6(a)  
Supplemental  
DECEMBER 2009

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December 2, 2009

Eric A. Olson, Chairman  
Chris Oliver, Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2252

Re: Agenda C-6(a) Review Progress on BSAI Amendment Package—Lease rates

The Alaska Crab Coalition wishes to provide clarifications to the Seafood.com article "Red king crab lease rates at 78% of ex-vessel value, to be studied by North Pacific Fishery Management Council" (John Sackton, November 12, 2009, attachment), as this is pertinent to this review of the crab rationalization program.

The Alaska Crab Coalition agrees with Mr. Sackton that due to expectations of a drastically reduced Bering Sea *C. opilio* TAC and somewhat reduced Bristol Bay King crab TAC during the summer, some vessel owners have competed more aggressively on lease rates this fall. They have leased crab to secure more quota, so they can continue operating their vessels. However, the implication that lease rates soared to an industry-wide standard of 78 percent is not true. The 78 percent claim is based upon a few isolated incidents that reportedly resulted in lease rates being bid up in excess of 70 percent. Although the precise rates are not verifiable, they can be attributed to situations involving financial stress and/or television media subsidizing vessel operations. Unless ex-vessel prices increase, few if any vessel owners could operate a vessel at greater than a 70 percent lease rate without operating at a loss; and/or jeopardizing the resignations of the entire crew. In the first year of the rationalization program, the entire crew of two vessels quit the vessels, resulting in a disruptive and costly tie-up of the vessels in the midst of the season.

The best information available on lease rates in the BSAI crab fisheries is found in the NPFMC analysis on leasing practices that was released at the June 2009, NPFMC meeting. Information in the paper is based upon officially audited, mandatory Economic Data Reports (EDRs) that are filed by quota share holder vessel owners. The Leasing Practices paper notes lease rates in the Bristol Bay red king crab fishery range from 65 to 70 percent, and in the Bering Sea *C. opilio* fishery they range from 45 to 50 percent. (Leasing Practices in North Pacific Fisheries, Bering Sea and Aleutian Island crab fisheries, NPFMC June 2009, page 9). ACC Board members concur with these ranges of lease rates in the past and for the present. Note also that these rates are only for leased quota. The standard industry practice is to not charge a royalty on quota initially earned by the harvesting vessel, which drastically reduces the fleet-wide average royalty.

In addition, the ACC Board members note that the current lease rates for the *C. bairdi-tanner* crab fishery range from 25 to 30 percent; the recently reopened St. Matthew Island blue king crab

fishery is 25 to 40 percent; and the Eastern District Aleutian Islands golden king crab fishery is 50 percent; while the Western District golden king crab fishery rate is 20 percent. Lease rates are a function of the value of the crab species and the relative ease and cost of harvesting the product. BSAI crab lease rates are very similar to lease rates in other rationalized Alaskan fisheries. The ACC is confident any review of BSAI crab lease rates would determine the economic soundness of the market-based lease rates compared to other fisheries, not only in Alaska but elsewhere, when comparing effort versus product value.

Arni Thomson  
Executive Director  
Alaska Crab Coalition





## **Red king crab quota lease rates at 78% of ex-vessel value, to be studied by N. Pacific Council**

SEAFOOD.COM NEWS by John Sackton - Nov. 12, 2009 - The red king crab season is in its last quarter, with about 77% of the non-CDQ allocation landed as of Nov. 11th. The vessels participating in the fishery have landed 11.16 million pounds, out of a total allocation of 14.4 million pounds.

At the N. Pacific council meeting in October, ADF&G Commissioner Denby Lloyd asked that the issue of lease rates be studied as part of the upcoming 5 year review of the crab program. This season, with a reduction in the TAC and competition among operating vessels to lease crab to make themselves more efficient, the lease rates for red king crab soared to 78% of ex-vessel value. In previous years, lease rates for red king crab had been around 70%.

This means that if the ex-vessel value is \$4.50, leased quota would return \$3.51 to the quota holder, while \$0.99 cents is paid to the vessel operator landing the crab.

The largest portion of the crab landings are likely leased quota at this point, as there has been consolidation of the majority of crab co-ops into a super co-op, called Intercooperative Exchange (ICE), whose members account for 74% of all red king crab quotas. Leasing deals within a single co-op can be done extremely quickly and easily.

The jump in value of lease rates illustrates a key dynamic potentially effecting other rationalization programs, such as the catch share program in New England.

In economic terms, the return of lease value to the operating vessel, (\$0.99 cents per lb. in our example) represents the marginal value to a vessel of catching an additional pound of crab. But in a mixed fishery involving several species, as is the case in New England, that marginal value could be much higher.

Due to the low TAC's of some species such as yellowtail, the potential exists for demand for access to those allocations to drive the price up beyond the actual landed value of yellowtail. In short, the value of yellowtail could be determined by the fact that certain fisheries need access to yellowtail either as by-catch, or as an allocation simply in order to fish other quotas. The marginal value of 100 lbs. of yellowtail which could allow a scalloper an additional 500 lbs. of scallops, for example, would be determined by the value of the scallops, not the value of the yellowtail.

Under a pure auction system, participants in the highest value fisheries would be able to outbid participants in lower value fisheries for the available weak stock allocations that are necessary to enable fishing to continue.

Co-ops have allowed groups of vessels to manage their allocations of all species and bycatch much more effectively than if each individual vessel was acting alone. But it is obvious that the issue of how lease rates impact other aspects of fishery behavior will now be studied by fisheries managers based on the evolution of current practices. In New England it would behoove managers to think through this problem and the desired results ahead of time, instead of having to scramble to address the result after the fact.

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December 2, 2009

Mr. Eric Olson  
Mr. Chris Oliver  
North Pacific Fishery Management Council  
605 West 4th, Suite 306  
Anchorage, Alaska 99501

Re: IPQ Thresholds. Component 2, Option (a) of the December 2008 Motion

Gentlemen,

The NPFMC is in the process of examining a change to the threshold caps on annual IPQ, and a related proposal to auction all of the excess IFQ above those same caps. This letter addresses the former issue.

There is no guarantee that a reduction of the annual IPQ caps will result in more competition; in fact, all of the current evidence is that the only result will be a transfer of revenue and wealth away from the processing sector and the crab-dependent communities that have either acquired PQS because they are often the least able to compete because of their distance from the grounds or lack of high-volume, multi-species processing operations.

This action is certainly not consistent with the original intent of the program, and the alternative thresholds are well below the historic average harvest rates which were used to design the program, and which have become the basis for community as well as private sector expectations.

On the following pages, we have provided some analysis to support these conclusions. We ask that you remove these alternatives from the motion and analysis. If you do choose to move forward, we ask that you add an additional alternative that more equitably recognizes average historic harvest rates in the Opilio/Snow Crab fishery.

Thank you in advance,

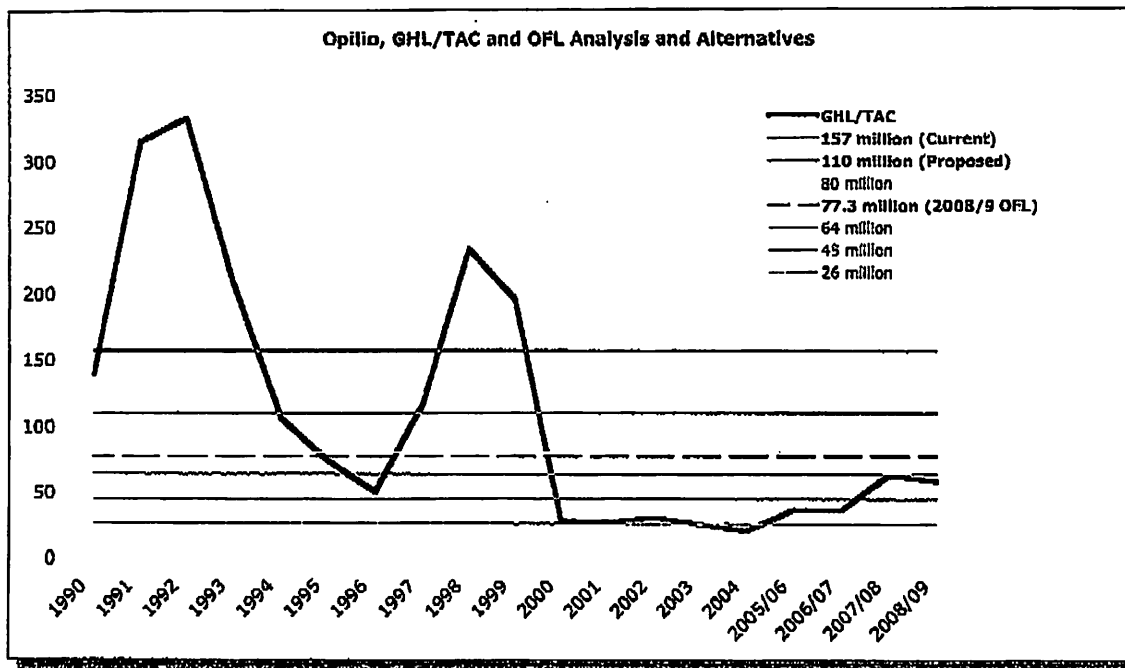
A handwritten signature in black ink, appearing to be "S. Minor", written over a horizontal line.

Steven K Minor

cc: Dr. Mark Fina

**The Council's Purpose & Need Statement says: "... higher TACs afford an opportunity to expand competition...". But any reasonable analysis of the current fisheries shows that the industry continues to operate at historically low TACs, and as a result the alternatives identified in the motion are artificially low as well.**

**The Opilio fishery has just failed to meet it's Ten Year Rebuilding schedule, and remains below historic averages. The industry continues to operate at these historic lows rather than the "higher TACs" referenced in the motion. As a result of this mis-statement, three out of four of the proposed Council alternatives are actually set below the 2008/9 OFL.**



**If the Council continues this analysis, two things should happen:**

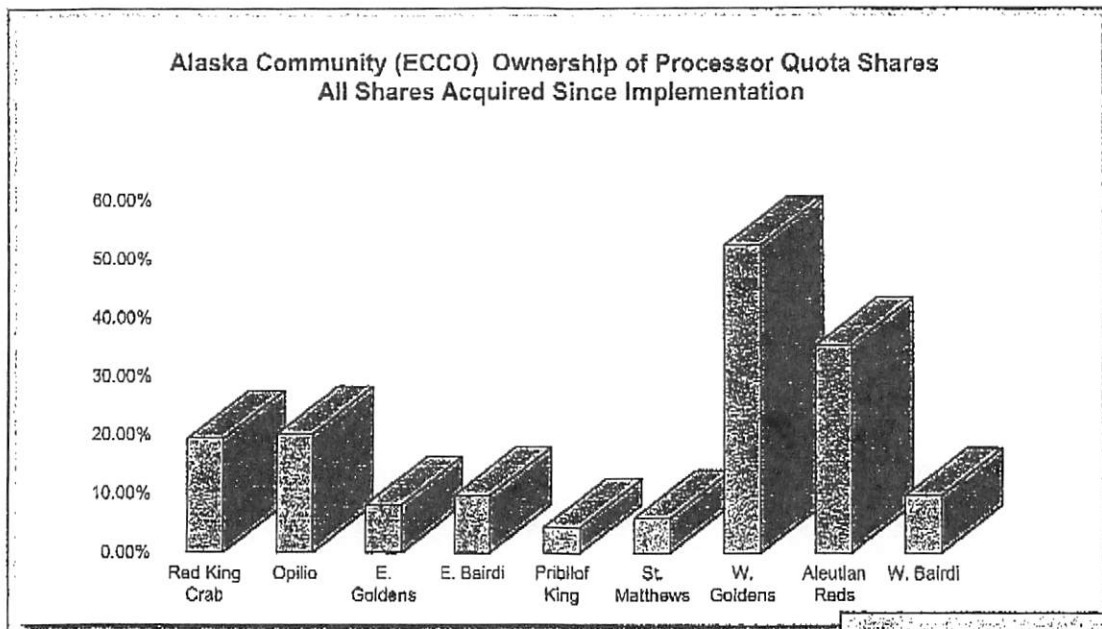
- 1. All alternatives set below the current OFL should be removed from consideration (25, 45 and 64 million), and**
- 2. An appropriate alternative based on historic averages should be established. We believe that alternative should be approximately 110 million pounds.**

**The IPQ threshold was established by the Council as a dividing line between "low TAC" and "high TAC" years. The average Opilio GHL/TAC from 1980-2008 is 110.5 million pounds. Prior to the 2000 season, the GHL/TAC had only dropped below the 80 million pound alternative one time. The current range of IPQ threshold alternatives in the current motion appear to be based solely on the 2000-2008 fisheries, which are still under a Rebuilding Plan that is about to be extended beyond ten years, which is inconsistent with program objectives and the Council's own P&N Statement.**

**The Council's P&N Statement also incorrectly states that: "... (this action will) maintain protection for processor investment and recognize community dependency under an (new, lower) IPQ threshold." The range of IPQ thresholds under consideration do not protect processors nor do they afford a reasonable level of community protection. As we have shown, the upper end of the Opilio range falls well below even the historic average TAC/GHL levels that are the foundation of the program's structure.**

The Three Year Review clearly documents that the Processing Sector was not adequately compensated for its stranded capital. Lowering the IPQ thresholds and thereby shifting even more wealth to the harvesting sector is unfair and it will exacerbate this problem, and in particular, harm the ECCOs and other new entrants that have acquired PQS by stripping them of their assets and (in the case of ECCOs) the community protections afforded by those assets. The PQS valuation formula outlined on Page 99 of the Three Year Review is correct. At current TACs and ex-vessel prices the formula suggests that the aggregate QS/IPQ value of the major crab fisheries is in excess of \$1.2 billion, while the aggregate PQS/IPQ value of the same fisheries is less than \$90 million.

The Council established a record that it was their intent to split the fisheries equity between vessel owners and plant owners on a 65/35 basis. The anticipated value of IFQ was to be \$675 million to \$750 million; but several studies have shown the actual value of the IFQ issued to vessel owners is in excess of \$1.2 billion.



For processors, the opposite has occurred. The Council anticipated a PQS/IPQ aggregate value of approximately \$250 million to \$350 million. The actual value is less than \$90 million. For the Council to now consider additional transfers of processor equity to the harvesting sector is inconsistent with program goals and unfair to PQS holders, including several CDQ groups and ECCO's that now hold PQS on behalf of coastal communities.

**Reducing PQS to favor the fleet will undermine one of the most successful features of the program: protecting community access to the resource through direct community ownership of Processor Quota Shares.**

Without a doubt, the acquisition of PQS by community ECCOs has happened at a faster pace than was ever anticipated. But it is not difficult to understand why this is happening. By acquiring PQS, a crab-dependent community guarantees its access to the fisheries and the viability of a portion of its local processing activity and related economic activity.

**WHO ARE THE ECCO PQS/IPQ OWNERS?**

APICDA, a CDQ Group

Aleutia, the ECCO for King Cove

CBSFA (dba 57N), a CDQ Group

CVRF, a CDQ Group

Kodlak Fisheries Development, the ECCO for Kodiak

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December 2, 2009

Sent via Facsimile Only

Eric Olson, Chairman  
North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2252

Re: Western Aleutian Islands Golden King Crab Fishery

Dear Chairman Olson and Council Members:

I am writing on behalf of the Golden King Crab Harvesters Association (GKCHA), a group of crab harvesters who hold quota share for the Eastern Aleutian Islands golden king crab fishery (EAG) and the Western Aleutian Islands golden king crab fishery (WAG). These comments pertain to the Joint Petition for Emergency Regulation filed by GKCHA and others requesting an emergency rule to suspend the regional delivery requirement in the WAG fishery for the balance of the 2009-10 season (agenda item C-6(c)). The Council considered this joint petition at its October 2009 meeting, and by a unanimous vote requested staff to prepare a discussion paper for consideration at your meeting next week.

The discussion paper reviews the background of the WAG fishery under the crab rationalization program and the circumstances that have led to the processing plant on Adak being closed. The paper also discusses the standards for invoking the emergency rule authority in section 305(c) of the Magnuson Stevens Act and the points on which the Council needs to build a record to support an emergency rule. Although the joint petition addresses these issues, these comments will elaborate and update the need for emergency action to avoid the significant economic losses that will be suffered by those involved in the WAG fishery if the regional delivery requirement is not suspended for the remainder of the current fishing season.

The processing plant on Adak remains closed, and the prospect of the plant opening this season is uncertain. The former operator of the plant, Adak Fisheries, LLC, is in bankruptcy. The bankruptcy court recently ordered that the assets of Adak Fisheries be sold to a new company, Adak Seafood, LLC, whose majority owner was the former majority shareholder of Adak Fisheries. Among the assets acquired by Adak Seafood



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were the rights Adak Fisheries had under its lease of the plant from Aleut Enterprises, LLC. The current term of that lease is due to expire on December 31, 2009. Adak Fisheries had an option to renew this lease for another five-year term, but did not exercise that option before it expired in early September 2009. The bank that was a secured creditor of Adak Fisheries, and which remains a creditor of Adak Seafood, has filed a complaint seeking, among other things, to compel Aleut Enterprises to accept an extension of the lease. Aleut Enterprises has counterclaimed for a judgment declaring that the lease will expire on December 31, 2009. No schedule has been set for litigating this issue. Thus, unless the court orders otherwise, it appears that the current lease of the Adak plant will expire at the end of this month, and one can only speculate if any processor will be in a position to operate the plant beginning in 2010 and for the rest of the season.

The discussion paper identifies several criteria that the Council should address in support of recommending promulgation of an emergency rule. First, is whether closure of the plant results from recent, unforeseen events or recently discovered circumstances. Adak Fisheries' bankruptcy petition was filed on September 11, 2009, less than three months ago. While there have been various problems with delivery of crab to the Adak plant in the prior four seasons under the crab rationalization program, closure of the plant due to bankruptcy of the operator was not among them and presents a new circumstance. This criterion is satisfied.

Second, is whether the situation presents a conservation or management concern. The discussion paper suggests that the Council identify why a private business matter should be viewed as a management problem and articulate how an exemption from the regional delivery requirement will address this problem. The answer is simple. Closure of the processing plant on Adak means that there will be no processing facility available to take delivery of and process west-designated individual fishing quota (IFQ) for the WAG fishery. The holders of the bulk of the WAG individual processing quota (IPQ), the CDQ group and Native corporation located on Atka, do not as yet have a processing plant capable of handling golden king crab. They would therefore have to rely on a custom processing arrangement with the plant on Adak, as happened for the 2008-09 season. But if the plant on Adak is closed, and with no floating processor available, the IPQ holders would have no place to process any of their west-designated IPQ. The upshot is that without an exemption from the regional delivery requirement, IFQ holders would have no place to deliver approximately 600,000 pounds of west-designated IFQ and would be left with no choice but to leave this crab unharvested. This would result in direct economic losses to all concerned: at least \$ 1.2 million in ex-vessel value to harvesters (most processors are currently offering \$ 2.00 per pound as the initial price for golden king crab, with adjustments to be made later depending on the final market price); loss of revenue to processors from selling their processed crab; loss of tax revenue to communities and the State of Alaska; and loss of fees paid to support the rationalization program.

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The stated purpose of the crab rationalization program was to “to implement a management program that improves resource conservation and management, promotes safety of human life at sea, reduces excess capacity, and *provides economic stability* for harvesters, processors, and communities.” See Bering Sea and Aleutian Islands Crab Fisheries Final Environmental Impact Statement (August 2004) at 1-3 (emphasis added). The problem statement adopted by the Council concerning the need for crab rationalization was to develop a management program that, among other things, “maintains healthy harvesting and processing sectors and promotes efficiency and safety in the harvesting sector.” *Id.* at 1-5. Economic stability and healthy harvesting and processing sectors were goals of the rationalization program, and a situation where those goals are thwarted clearly presents a management problem. Moreover, a primary goal of the Magnuson Stevens Act is achievement of the optimum yield in the nation’s fisheries. A situation where an allowable harvest is precluded by a regulation certainly qualifies as a management problem. Suspension of the regional delivery requirement for the remainder of this season will solve this management problem by allowing the IPQ holders to take delivery of their west-designated IPQ outside the west region, presumably in Dutch Harbor. This is not a perfect solution to the problem – IFQ holders still would prefer to deliver their crab closer to the fishing grounds and avoid having to run back to Dutch Harbor – but it is far better than foregoing the harvest altogether.

The discussion paper (at 5-6) raises an issue that has been discussed before, whether IFQ holders have used all the tools available to them to resolve problems in the WAG fishery, specifically, the arbitration mechanism. To the extent there is an implication that arbitration could be used to solve the current problem, the Council should bear in mind that an arbitrator would have no authority to order that the plant on Adak be opened to take delivery of west-designated IFQ. IFQ holders might secure a contract claim that they could pursue in a civil action against the IPQ holders, but the crab would still go unharvested. And while such an arbitration decision and subsequent civil damage award might thus mitigate the harm to IFQ holders from having to forego the harvest of approximately 600,000 pounds of golden king crab, the IPQ holders would incur significant out-of-pocket losses and affected communities would still lose tax revenues. In contrast, relaxation of the regional delivery requirement for the remainder of this season, pursuant to an emergency regulation, means that all sectors would benefit from the harvest of this crab.

The third criterion the Council should consider is whether the benefits of emergency rulemaking outweigh the benefits of advance notice, public comment, and the deliberation that attends the usual rulemaking process. In balancing these factors, the Council should keep in mind that the petition for rulemaking was jointly submitted by the holders of quota share and processor quota share for the WAG fishery and the affected communities, and thus represents the position of all three legs of the crab rationalization stool. Also, the petition will have been on the agenda and subject to public comment at two Council meetings, your meeting in October and the meeting next week, and will thus have undergone considerable public process even without the usual notice and comment rulemaking. On the other hand, suspending the regional delivery requirement for the

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balance of this season will allow the harvest, delivery, and subsequent processing and sale of approximately 600,000 pounds of golden king crab. This will benefit all concerned.

Finally, the discussion paper encourages the Council to build a record identifying why the present circumstance constitutes an emergency. In this regard, the Council should keep in mind the guidance provided by policy guidelines adopted for use of the emergency rule authority:

If the time it would take to complete notice-and-comment rulemaking would result in substantial damage or loss to a living marine resource, habitat, fishery, industry participants or communities, or substantial adverse effect to the public health, emergency action might be justified under one or more of the following situations:

\*\*\*\*

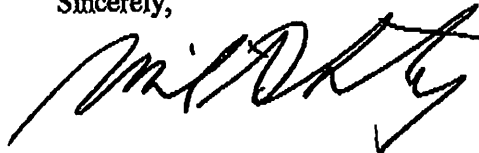
(2) Economic – to prevent significant direct economic loss or to preserve a significant economic opportunity that otherwise might be foregone.

62 Federal Register at 44422 (August 21, 1997). Since there is no dispute that following the normal rulemaking process would not yield a solution to the problem of the Adak plant being closed this season, the only real question is whether the damage suffered by industry participants from the foregone harvest is "substantial" and represents a "significant" economic loss/opportunity. The Council will have to use its judgment in making this determination, but we submit that the magnitude of losses outlined above, and in the joint petition, are definitely substantial and significant.

We conclude by renewing our request that the Council (1) find that an emergency exists in the circumstances described in the joint petition and (2) recommend that NOAA Fisheries promulgate an emergency regulation to suspend the regional delivery requirement in the WAG fishery for the remainder of the 2009-10 fishing season.

Thank you for considering these comments.

Sincerely,



Michael A. D. Stanley

# PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-66 BSAF CRAB WA6 WR

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Dave Cruser	ACDC
2	MIKE STANLEY	GKCHA
3	Larry Cotter	APICDA
4	Stephen Taufen	Groundswell Fisheries Movement
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

Professional Crab Harvesters Cooperative  
Sub-Coop 11 to Inter-cooperative Exchange (ICE)

C-6a  
Crab  
Handout -  
agenda item  
was dropped

December 10, 2009

Eric Olson, Chair  
North Pacific Fisheries Management Council  
605 W. 4th Avenue, Suite 306  
Anchorage, Alaska 99501-2252

Re: Agenda C-6(a) BSAI Crab Program, December 2009

Dear Chairman Olson:

I would like to point out the 2<sup>nd</sup> paragraph in the draft purpose and need statement being presented to Council this week. It reads; "*Experience under the BSAI Crab Rationalization Program has made apparent the need to analyze alternatives to status quo to achieve: entry-level investment opportunities for active participants*"

The threat of the NPFMC taking draconian measures to change the Crab Program is the number one impediment that is discouraging new entrants from investing in quota shares (QS) in BSAI crab. Few lenders and potential active participant investors have the nerve to invest in a program that may be changed on them at any moment rendering their investment worthless. There is no shortage of willing QS sellers, as evidenced by multiple crew & vessel IFQ's available on Dock Street Brokers website, [www.dockstreetbrokers.com](http://www.dockstreetbrokers.com). However, there are very few willing buyers as the Council threat of allocative changes has been hanging over the industry since the 18 month review began.

The next impediment to new entrants is the lack of a promised NMFS long term, low interest loan program. The latest rumor is it may be ready sometime next year. How many years have we heard this?

Next I would like to ask in spite of the impediments mentioned above is how much entry-level investment opportunities for active participants are we looking for? Attached is the September 2008 NMFS Alaska Region Report on the Crab Program to the Crab Plan Team (Glenn Merrill). On page 4, 5<sup>th</sup> bullet, NMFS notes the changes in QS ownership

- In almost all crab fisheries, there has been limited consolidation of the amount of vessel owner QS held per person, and there are roughly the same number of QS holders now as in the first year of implementation. **The average and mean amount of QS held by crew has increased by roughly 10 % in most crab fisheries**, and there are roughly 10% fewer QS holders. Little or no consolidation in crew QS has been observed in the Western Aleutian Islands

golden king crab, St. Matthew, and Pribilof Island fisheries. **Overall, roughly 10 % of the QS in all fisheries is now held by persons who were not initially allocated QS in any of the BSAI crab fisheries.**

- I have also attached the October 2009 NMFS Management Report presented to Council last October. On Page 2 under "Entrance & Attrition" it discusses changes in persons holding QS. **While it does not expressly identify the number of new entrants, one can simply calculate from the information provided in this report, that roughly 15% of initial issued QS is now held by new entrants since implementation of the crab program.** (This section shows a net loss of initial issues of 5 persons out of a total of 510 persons when the program began, 79 sold their QS.)

I would argue that investment is much easier for a new entrant post rationalization. A new entrant can buy as few or as many QS pounds as he can afford. Pre-rationalization a new entrant was required to purchase into a vessel as well as a Crab permit with no guarantee he would catch anything. I do not have access to the number of new entrants investing into BSAI Crab fisheries in the 5 years leading up to Crab rationalization. I can tell you as an industry insider that this was a dismal time to be in the crab business and new entrants were very near 0%. Now post rationalization we have seen a 10 to 15% investment of new entrants, even with the same low level quotas that nearly bankrupted many of us before rationalization. That is a 1000 to 1500% increase in new entrants, when comparing 5 years before to 4 years after rationalization.

I challenge you to find another Alaskan fishery that has a higher percentage of new entrant investors than the BSAI Crab Fishery under the current rationalization program. This arguably is now the easiest fishery in Alaska for a new entrant to get involved in and would only improve if the council would just remove the threat of dismantling the crab program and if the NMFS crew loan program would finally get implemented. In spite of all of this we hear that lack of new entrants into the crab fisheries is a problem. How is this perception made in contradiction of all the facts to the contrary?

Please analyze the amount of new entrants before and after implementation of the Crab Program, to ensure the purpose & needs statement is correct.

Regards,

Jim Stone  
Professional Crab Harvesters Coop  
7216 Interlaaken Drive SW  
Lakewood, WA 98499

**Crab Plan Team  
Background on Crab Rationalization Program  
NMFS Alaska Region**

**General Background**

All nine major BSAI crab fisheries are managed under the crab rationalization program (Program), a limited access privilege program implemented on April 1, 2005. One of benefits expected to arise from the Program is ending the "race for fish," thereby allowing participants time to tailor their business operations to achieve the greatest market benefit, reduce costs, and improve safety.

The Program allocates exclusive harvesting and processing privileges to holders of transferable harvester quota share (QS), and processor quota share (PQS). QS and PQS are derived from historic harvesting and processing activities. NMFS issued QS to catcher vessel owners, catcher/processor owners, and crew. Most of the total QS issued went to catcher vessel owners. PQS was issued to historically active processors. QS and IFQ may be held only by U.S. citizens. PQS and IPQ are not subject to this restriction. QS and PQS can yield an annual harvesting individual fishing quota (IFQ) individual processing quota (IPQ), respectively.

Each year, ADF&G determines the total allowable catch (TAC) of the various crab fisheries, and NMFS allocates that TAC. First, NMFS allocates 10 percent of the TAC to the Western Alaska Community Development Quota (CDQ) Program which represents specific coastal communities adjacent to the Bering Sea and Aleutian Islands. The CDQ allocation is further allocated among six CDQ groups representing specific groups of communities. NMFS also allocates 10 percent of the TAC for the Western Aleutian Islands golden king crab fishery to a specific entity representing the community of Adak, which is managed similar to a CDQ group. Second, NMFS then allocates the remaining amount of the TAC to each qualified QS holder as IFQ. NMFS will issue IFQ to a QS holder only if they meet requirements to apply for IFQ by August 1 of each year, submit an annual economic data report, and pay required fees. Each year, harvesters can choose to assign their QS and resulting IFQ to a harvesting cooperative. A harvester cooperative must comprise at least four unique QS holders who are not affiliated with each other through more than a 10 percent direct or indirect ownership interest, or do not otherwise control each other.

The Program limits the amount of QS that any one person may hold, and the amount of IFQ that a person may use. These limits, commonly called use caps vary for each fishery, whether the QS is held by vessel owners or crew, and the nature of the QS/IFQ holder. For example, QS/IFQ holders that also hold PQS or IPQ are subject to a specific use cap, persons who hold QS or IFQ only another use cap, and CDQ groups who also hold QS and IFQ a different cap. The method for calculating the use cap differs for each of these three groups of QS/IFQ holders. The Program has a "grandfather exemption" that allows harvesters initially allocated more QS than the use cap to continue to hold their initially allocated QS, and use any resulting IFQ, above the use cap.

The Program also establishes limits on the amount of PQS a processor can hold and the amount of IPQ from that PQS that they can use. This limit is set at 30 percent of the initially allocated PQS pool. The Program has a grandfather exemption for processors over this use cap.

The Program also limits the amount of IFQ that can be harvested by a vessel. This use does not apply if all of the crab harvested by a vessel is derived from IFQ that is assigned to a cooperative.

Harvesters and processors can transfer their QS/IFQ and PQS/IPQ to other harvesters and processors respectively subject to limits on the amount transferred and the person eligible to receive the transfer. For example, a person cannot transfer crew QS/IFQ to a person who is not a valid crew member meeting specific requirements. Also, transfers are not approved if they would cause a person to exceed a use cap. The IFQ held by the cooperative can only be transferred to



other cooperatives, and IFQ not assigned to a cooperative can only be transferred to other non-cooperative IFQ holders.

Ninety percent of the IFQ derived from catcher vessel owner QS must be delivered to a processor holding IPQ. This type of IFQ is called Class A IFQ. Each year, harvesters and processors must match up their Class A IFQ and IPQ shares on a one-to-one basis. The remaining 10 percent of the IFQ issued to catcher vessel owners is called Class B IFQ and can be delivered to any processor without matching to a specific amount of IPQ. NMFS issues an amount of IPQ to each IPQ holder that is equal to the amount of Class A IFQ provided the PQS holder meets requirements to apply for IPQ by August 1 of each year, submit an annual economic data report, and pay required fees. For most crab fisheries, Class A IFQ and IPQ shares are also subject to requirements that they be delivered within specific geographic regions, known as regionalization.

Most crab fisheries, including the two largest crab fisheries, Bristol Bay red king crab and Bering Sea snow crab, are regionally designated for the North Region (i.e., north of 54° 20' N. lat.), or the South Region (i.e., any location south of 54° 20' N. lat.) based on historic delivery patterns. St. Paul is the only significant crab processing port in the North Region. Dutch Harbor (Unalaska), King Cove, and Kodiak are some of the larger crab processing ports in the South region. The Western Aleutian Islands golden king crab fishery is regionally designated with 50% of the Class A IFQ and IPQ for the West Region (i.e., West of 174 ° W. long.) and the remaining 50% is undesignated and may be delivered anywhere. The Eastern and Western tanner crab (*C. bairdi*) fisheries are not subject to regional delivery. The table below shows the proportion of the Class A IFQ and IPQ that must be delivered within these regions.

Crab fishery	Percentage of Class A IFQ & IPQ by region	Pounds of Class A IFQ & IPQ by region (2007/2008)
Eastern Aleutian Islands golden king crab (EAG)	100 % South	2,243,082 lb. South
Western Aleutian Islands golden king crab (WAG)	50 % West 50 % Undesignated	570,932 lb. West 569,855 lb. Undesignated
Western Aleutian Islands red king crab (WAI)	100 % South	Fishery Not Open – No Class A IFQ or IPQ
Eastern Bering sea Tanner crab ( <i>C. bairdi</i> ) (EBT)	100 % Undesignated	2,525,080 lb. Undesignated
Western Bering sea Tanner crab ( <i>C. bairdi</i> ) (WBT)	100 % Undesignated	1,592,952 lb. Undesignated
Bristol Bay red king crab (BBR)	2.7 % North 97.3 % South	388,006 lb. North 14,893,400 lb. South
Bering Sea snow crab ( <i>C. opilio</i> ) (BSS)	47 % North 63 % South	21,073,807 lb. North 23,957,111 lb. South
Pribilof Islands red and blue king crab (PIK)	67.5 % North 32.5 % South	Fishery Not Open – No Class A IFQ or IPQ
St. Matthew's blue king crab (SMB)	78.3 % North 21.7 % South	Fishery Not Open – No Class A IFQ or IPQ

Historic processing ports, such as Dutch Harbor, St. Paul, King Cove, and Kodiak, are also provided a right-of-first-refusal that gives them the first opportunity to purchase any PQS that is offered for transfer if that PQS was earned from processing in their communities. During the first two years of the Program, IPQ for most crab fisheries was subject to a “cooling off” period that limited the ability of crab to be delivered outside of the community where the PQS was earned.



The Program requires that Class A IFQ and IPQ holders establish an arbitration system to resolve any price or delivery disputes. Class A IFQ holders who are not otherwise affiliated with IPQ holders can unilaterally trigger a binding arbitration proceeding if disputes cannot be settled.

The Program limits the ability of vessels used in the snow crab fishery from fishing in the GOA. Specifically, vessels are limited to sideboard limits that control the total amount of Pacific cod that can be harvested to reduce impacts on other GOA groundfish fisheries. The Program also includes extensive monitoring & enforcement, and recordkeeping and reporting requirements, including a detailed annual economic data report.

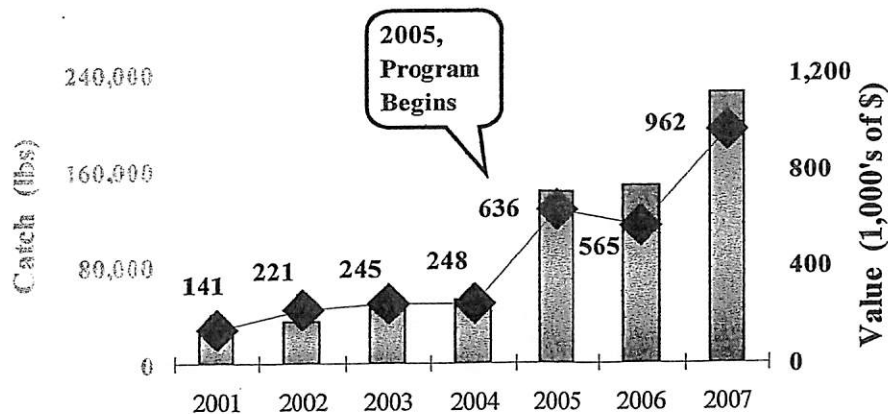
**Trends in Fishery Performance Under the Program**

- The number of vessels fishing decreased by nearly 2/3 from the number actively fishing prior to the Program. Some of the decrease in the number of vessels active may be due to 25 vessels being removed in the crab buyback program in December 2004, just prior to the first year of fishing under the Program in 2005/2006. The following table shows the total number of active vessels in the BSAI crab fisheries managed under the Program.

Crab Fishing Year	Number of Active Catcher Vessels	Number of Active Catcher/Processors	Total Number of Active Vessels
2000/2001	246	10	253
2001/2002	235	11	243
2002/2003	238	11	247
2003/2004	247	9	254
2004/2005	245	9	256
2005/2006 (1 <sup>st</sup> year)	100	5	101
2006/2007	87	5	91
2007/2008	83	5	87

- An increasing number of QS holders have chosen to participate in cooperatives. In 2007/2008, more than 99 percent of all IFQ was issued to cooperatives. In most fisheries, the number of active cooperatives is decreasing, indicating that harvesters have found substantial organizational or financial benefits to collaboration through better coordination on landings, tailoring fishing capacity to TAC, and collective price negotiation.
- The remaining vessels harvest a greater proportion of the catch and appear to be more profitable. Figure 1 provides an example for catcher vessels for one fishery.

**Figure 1: Median catch & mean exvessel value per catcher vessel  
Bristol Bay red king crab (Source: NMFS, NPFMC)**



- To a varying extent, in all crab fisheries, actual fishing time has increased. The greatest increase is observed in the snow crab fishery, and least in the Bristol Bay red king crab fishery. Prior to the rationalization program, in most fisheries vessels made a single delivery after a fishery closing. Under the rationalization program, almost all vessels make multiple deliveries in a season, fishing closer to the vessel's capacity prior to making deliveries.
- Crew employment has decreased with the consolidation of the fishery. The precise number of crew previously employed on vessels that are no longer employed is not known, but various estimates suggest several hundred up to a thousand crew positions may have been lost. Prior to the Program, many of the crew positions were short term positions and may not have provided the total annual income to crew.
- In most cases, crew employed by vessels fishing in the program are reported to have more stable and better paying positions than prior to the program's implementation. Many crew are reported to rely exclusively on crab fishing for their income. Other crew are reported to work on the crab vessel in other fisheries or tendering, relying on employment from their crab fishing vessels for all of their income. Precise data on crew employment pre and post-Program implementation are not available.
- The amount of QS transferring varies per fishery per year. For the Bristol Bay red king crab fishery ranged from 1.3 % in 2007/2008 to 7.7 % in 2006/2007, and in the snow crab fishery ranged from 1.9 % in 2007/2008 to 6.8 % in 2006/2007. An average of roughly 5 % of the QS pool transferred per year.
- In almost all crab fisheries, there has been limited consolidation of the amount of vessel owner QS held per person, and there are roughly the same number of QS holders now as in the first year of implementation. The average and mean amount of QS held by crew has increased by roughly 10 % in most crab fisheries, and there are roughly 10 % fewer QS holders. Little or no consolidation in crew QS has been observed in the Western Aleutian Islands golden king crab, St. Matthew, and Pribilof Island fisheries. Overall, roughly 10 % of the QS in all fisheries is now held by persons who were not initially allocated QS in any of the BSAI crab fisheries.
- Overall, a greater percentage of the PQS pool has transferred. At a minimum only none of the Western Aleutian Island red king crab PQS pool transferred in 2005/2006, and at a maximum 43.6 % of the Western Aleutian Island golden king crab fishery PQS pool transferred in 2007/2008. Generally, extensive IPQ transfers, or leases have occurred each year. Initially, there were substantially fewer persons holding PQS, roughly 20 unique persons among all the fisheries. Overall there has been greater consolidation of PQS and IPQ than QS and IFQ. One large merger between two companies (Nichiro-Maruha) is responsible for much of this consolidation, although other new PQS holders have purchased into the fishery. In both the Eastern and Western Aleutian Islands golden king crab fishery there are two new PQS holders who now hold roughly 30 % of the combined PQS pools in those fisheries that had not previously held PQS in any crab fishery.
- Since implementation of the Program no crab fishery has exceeded its TAC, and in most cases the TAC is fully harvested. Prior to the Program, harvest relative to the GHF was often less fully harvested or exceeded, though by a somewhat limited amount.
- Deadloss in the Bristol Bay red king crab and the Aleutian Islands golden king crab fisheries has decreased post-rationalization, compared to the seasons immediately preceding implementation of the Program. In the Bering Sea *C. opilio* fishery, the rate of deadloss is comparable to that which occurred in the two most recent years before rationalization.
- There is no clear pattern indicating that rail dumping or handling mortality has changed in the fishery. Some conjecture that because the seasons are longer and vessels tend to avoid poor weather that may increase handling mortality. However, there are no conclusive data on handling mortality changes.

- Although soak times in the fisheries have increased and a definite correlation exists between extended soak times and legal male catch exists, the levels of sublegal and female catch under the Program remains within the range of bycatch levels from years prior to rationalization.
- Pot loss and ghost fishing may have decreased under the Program, but conclusive data are not available. With the decrease in the number of vessels participating in the crab fisheries, overall there is less gear on the fishing grounds post-Program implementation. Although each pot is used more frequently during a fishing season, the higher catch per unit effort under the Program still results in an overall reduction in gear.
- For all fisheries, fewer pots are registered, fewer pot lifts recorded, and on average greater CPUE per pot has been observed for all crab fisheries after Program implementation. The following table provides simple statistics on pot use in the various fisheries.

Fishery	Season	Number of pots registered*	Registered pots per vessel	Number of pot lifts *	Lifts per registered pot*	Average catch per unit effort (crabs per pot lift) *	Pounds per pot
Bering Sea <i>C. opilio</i>	2001	40,379	195	176,930	4.4	97	129.7
	2002	37,807	199	308,132	8.2	76	96.1
	2003	20,452	108	139,279	6.8	154	182.4
	2004	14,444	76	110,087	7.6	157	199.3
	2005	12,840	77	69,863	5.4	239	324.3
	2005 - 2006	13,734	176	108,320	7.9	204	306.9
	2006 - 2007	10,851	155	80,112	7.4	332	408.2
	2007 - 2008	13,647	175	129,457	9.5	349	438.2
Bristol Bay red king crab	2000	26,352	108	98,694	3.7	12	75.7
	2001	24,571	107	63,242	2.6	19	121.5
	2002	25,833	107	68,328	2.6	20	128.4
	2003	48,964	188	128,430	2.7	18	110.9
	2004	49,506	197	90,976	1.8	23	152.7
	2005 - 2006	15,713	177	99,573	6.3	25	165.4
	2006 - 2007	14,685	181	64,325	4.4	34	215.9
	2007 - 2008	11,885	161	101,734	8.6	28	180.1
Eastern Aleutian Islands golden king crab	2000 - 2001	10,598	707	71,551	6.8	10	43.1
	2001 - 2002	12,927	680	62,639	4.8	12	49.9
	2002 - 2003	11,834	623	52,042	4.4	12	53.1
	2003 - 2004	12,518	695	58,883	4.7	11	49.3
	2004 - 2005	13,165	658	34,848	2.6	18	81.7
	2005 - 2006	8,833	1,262	21,898	2.5	25	117.3
	2006 - 2007	8,150	1,358	23,839	2.9	24	112.9
	2007 - 2008	4,200	1,050	20,496	4.9	28	131.3
Western Aleutian Islands golden king crab	2000 - 2001	8,910	743	101,239	11.4	7	28.7
	2001 - 2002	8,491	943	105,512	12.4	7	25.5
	2002 - 2003	6,225	1,038	78,979	12.7	8	33.0
	2003 - 2004	7,140	1,180	66,236	9.3	10	39.8
	2004 - 2005	7,240	1,207	56,846	7.9	12	46.4
	2005 - 2006	4,800	1,600	27,503	5.7	21	86.8
	2006 - 2007	6,000	2,000	22,694	3.8	20	88.2
	2007 - 2008	4,800	1,600	25,287	5.3	21	88.8

Sources: \*ADFG Annual Management Report and \*\*fishtickets and \*\*\*NMFS RAM catch data (for 2005-2006, 2006-2007, and 2007-2008)

- During the first year under rationalization of the Bristol Bay red king crab fishery, the number of legal male crabs captured during the fishery and subsequently discarded was dramatically higher than discard rates in previous years, and represented approximately 20 percent of legal male red king crab caught. ADF&G reacted to the 2005-2006 discard issue by downwardly adjusting the TAC determination for the 2006-2007 season, thus resulting in an economic penalty for the share holders in that season. Discarding of legal males did not occur on a similar scale in 2006-2007, and no further downward adjustment was made for the 2007-2008

season. High grading and increases in discard rates have not been an issue in other fisheries or seasons.

- Overall fuel use in the fleet has decreased. Although vessels are active for a longer period of time, the total number of vessels active is lower. Many vessel owners report that under the Program vessel operators have made efforts to operate the vessels more efficiently (e.g., traveling to the grounds at optimal speeds, coordinating deliveries to minimize travel distance). The precise reduction in fuel use is not known because data of fuel use pre and post-Rationalization are not adequately comprehensive. Some have asserted that the overall "carbon footprint" of the BSAI crab fisheries is smaller.
- Safety has improved. Fatalities in the BSAI crab fisheries averaged 3 per year from 1996 through March 31, 2005 prior to implantation. From April 1, 2005 through the 2007/2008 there have been no fatalities in any BSAI crab fishery managed under the Program. In most fisheries, the average size of the vessels actively fishing increased after Program implementation. Some of this may be due to the buyback of smaller vessels in December 2004.
- Price negotiations, though still complex and contentious, appear to be more successfully addressed through private contractual arrangements rather than relying on the arbitration system. Unlike previous years, during the 2007/2008 crab fishing year, no binding price arbitrations occurred. The process for determining the historic revenue share between harvesters and processors continues to be reviewed by industry participants.

#### **Current Concerns**

- The decrease in the number of active vessels concerned that some crew and community representatives, primarily from Kodiak, that the Program has unduly limited employment opportunities. Others have argued the crew still working are long-term skilled participants who are better paid than before the Program. The Council has considered
- Some allege that the requirement that 90% of the Class A IFQ must be delivered to processors with matching IPQ decreases potential market opportunities. The Council is considering a range of modifications that would eliminate PQS & IPQ in some or all fisheries, or reduce the percentage of Class A IFQ issued to catcher vessel owners from 90% to some lower level.
- Processors and some communities and harvesters have argued that eliminating PQS & IPQ or reducing the Class A IFQ percentage below 90% would harm processing investments, destabilize communities reliant on crab, and introduce additional complexity to a relatively new system that could increase costs and have unintended consequences. Some have pointed to the fact that there were no arbitrations between Class A IFQ and IPQ holders this year over price or delivery disputes as an indication that the market is balanced between harvesters and processors.
- Some harvesters have proposed the Council should develop emergency relief exemptions from regional delivery requirements. NMFS has expressed concern that it may not be possible to establish objective emergency criteria. St. Paul has expressed concerns that it may lose out on substantial catch if the vessel operator makes the emergency declaration unilaterally. The Council is reviewing options to allow a vessel operator, processor, and community to jointly declare an emergency and relieve a harvester and processor from regional delivery requirements.
- Harvesters remain concerned that Council considerations to reestablish a vessel use cap for cooperative IFQ would reduce many of the economic efficiencies gained under the Program.
- Many harvesters have expressed frustration that NMFS has not yet published a proposed rule for a loan program to allow crew to purchase QS. The Council provided NOAA Financial Services its preferred options in February 2008.

## BSAI Crab Rationalization (CR) Annual Report Overview for Fishing Year 2008/09

### General Program Information and Changes

The fourth CR-fishing year, July 1, 2008–June 30, 2009, was relatively stable, with few Program changes to harvesters, processors, and reporting. The year brought improvements in observer safety protocol, electronic reporting, increased use of cooperatives, and additional initial issuee attrition with little overall change in QS/PQS holders. No significant events occurred within the fishery. Major Regulatory Changes:

73 FR 35084, June 20, 2008 (Effective July 21, 2008)

- permanently exempted CVC QS/IFQ holders from delivery, regional, and arbitration requirements;
- required RCRs to submit an annual Ex-vessel Volume and Value Report, replacing the use of prices reported at time of landing as the basis for cost recovery fee liability estimates.

73 FR 76136, December 15, 2008 (Effective January 14, 2009)

- changed conditions for at-sea transfers of observers, who now must be transferred during daylight hours under safe conditions with the agreement of the observer.

### CDQ Fisheries

A share of most BSAI king and Tanner crab fisheries is allocated to the CDQ Program. For BBR and BSS fisheries, numbers of CDQ vessels were slightly higher than those in 2007/08. Landings data remain confidential.

### ADAK Fishery

The Adak Community Allocation is 10 percent of the WAG fishery total allowable catch (TAC).

- The 2008/09 allocation was 283,500 pounds, slightly higher than last year's 270,000 pound TAC. Due to the small size of the fishery, harvest information remains confidential.

### QS/POS Fisheries

#### Appeals

- The Office of Administrative Affairs (OAA) completed 8 appeals during 2008/09.
- Three appeal cases are pending (and one new case was accepted, for the 2009/10 fishing year).

#### Arbitration

- QS/PQS and IFQ/IPQ holders must participate in the arbitration process. Arbitrations have largely regarded crab costs and delivery terms, except in 2007/08 when a procedural arbitration clarified issues surrounding the timing of price dispute resolutions.

*In 2008/09:*

- one proceeding partially resolved a delivery/price issue in the BBR fishery in favor of the harvester.
- one issue regarding a two-tier processor price structure was not resolved.

### IFQ/IPQ Permits: Issuance and Use

Numbers of persons issued IFQ/IPQ permits and those permitholders with IFQ landings stabilized from earlier years. Initial issuees continued to exit the fisheries but the total number of quota holders remained close to that for initial issuance. Cooperatives each count as one "person".

- Persons issued IFO/IPQ: IFQ Crew = 32, IFQ Owner = 20, IPQ Processor = 21.
- Permitholders who used permits: IFQ Crew = 81% (26), IFQ Owner = 100% (20), IPQ = 81% (17)
- Eight individual IFQ permitholders (of 54, 14.8 percent) participated in 15 landings.
- Hired Masters landed 99.9% of all IFQ crab landed.
  - of 154 Hired Masters authorized to fish, 112 (72.7%) fished.
  - Hired Masters participated in 786 of 787 (99.9%) total IFQ landings.

### Registered Crab Receivers (RCR)

RCR permits are needed to receive CR crab. More permits than actual participants are typically issued as a result of businesses using multiple facilities/platforms to receive crab. In 2008/09 the percentage of issued RCR permits actually to receive landings used increased.

- 62 Registered Crab Receiver (RCR) permits were issued to 25 persons, compared with last year's issuance of 70 permits to 25 persons.
- 23 (92%) persons used 33 (53%) of the issued RCR permits.

### Federal Crab Vessel Permits (FCVP)

Issuance and landing patterns for each vessel permit type has remained fairly consistent over time.

- 88 of 127 (69%) FCVPs issued for harvesting vessels had landings, of which:
  - 85 of 120 CV-endorsed permits had landings (71%), and
  - 5 of 7 CP-endorsed permits had landings (71%).

### Transfers

Numbers of intercooperative leases were little changed; numbers of noncooperative leases declined to zero because harvesting IFQ has been essentially fully assigned to cooperatives. Numbers of permanent harvesting QS transfers continued to decrease:

- 510 QS/IFQ transfers included 301 for cooperative leases and 209 for QS transfers.
- A total of 102.5 million QS units transferred; IFQ transferred totaled about 16.5 million pounds.
- 87 PQS/IPQ transfers included 42 PQS and 45 IPQ leases, almost twice as many transfers as in 2007/08, and occurred among more transferors and transferees.

#### Average Price per Crab QS Unit for QS Transfers

Estimated weighted average price per crab QS unit for priced QS transfer data are based on reported total transaction prices (including fees), multiplied by the number of units—not on reported dollars per unit.

<u>2008/09 Season</u>	<u>2007/08 Season</u>
BBR: \$0.80-\$1.16	BBR: \$0.65-\$1.17
BSS: \$0.42-\$0.53	BSS: \$0.42-\$0.53
Tanner: \$0.7-\$0.14	Tanner: \$0.04-\$0.26

### Consolidation—Quota holders

#### Entrance and Attrition

- Initial issuees holding QS/PQS at year-end totaled 431, vs. 510 initially and 487 after the first CR year.
- The number of initial issuees holding no QS/PQS at year-end was 79.
- The number of all persons holding QS/PQS (initial issuees and new entrants) totaled 505, for a net change from initial issuance of only 5.

$$79 \div 505 = 15.6\%$$

### Consolidation—Vessels

- Fleet consolidation stabilized with the addition of one more vessel fishing, for a total of 88.
- For a four-year comparison, in the first year of the Program, 101 vessels fished; in the second year, 91 fished; in the third, 87; and in 2008/09, 88.

### Use of Season Lengths

Season lengths for the CR fisheries have remained consistent under the Program. Percentage of season use ranged from 39% (EAG) to 99% (BBR) of the available number of days. (Some landings occurred after the season).

## Landings

Fishery	TAC (millions of lbs)	Percent of TAC Used	Vessels with Landings	Number of Landings
BSS	52.6	100	77	428
BBR	18.6	100	77	253
EAG	2.8	100	3	29
WAG	2.5	88	3	37
EBT	2.4	62	21	60
WBT	1.3	8	27	51

### *Landings for QS Cooperatives*

In 2008/09, 80 million pounds of crab IFQ (99.8 percent of all TACs) was assigned to cooperatives.

- 19 cooperatives (429 members) accounted for at least 99.6% of each fishery's IFQ pounds
- 77.6 million pounds, or 96.8%, were landed.

### *Landings outside Cooperatives*

- Only twelve persons held 160,539 pounds of IFQ outside cooperatives;
- Their harvest of approximately 136,000 pounds in 15 landings was 85% of the noncoop harvest potential.

### **QS/PQS Fishery Top Ports (and Landings)**

- Of the seven ports used for CR IFQ fisheries, Dutch Harbor/Unalaska again ranked number one in landings (337 landings).
- St Paul ranked second (185)
- Landings on catcher processors and stationary floating processors, or "At Sea," rose from fifth to third (110), displacing Akutan to fifth-ranked (71) port.
- The other landing ports did not change from last year's standings: King Cove ranked fourth (71); Kodiak sixth (20) and Adak (4) seventh.

### **Deadloss**

Over all, deadloss has decreased under the Program, and, as expected, most (over 87 percent) occurs within the IFQ A permit class.

- The highest percent deadloss by fishery was in WAG, with 3.3 percent.
- By fishery and sector, the WBT fishery catcher-vessel-owner sector had the highest deadloss rate (nearly 2.4 percent), despite the extremely small effort in that fishery (due to low catch rates).

### **QS/PQS Fishery Sideboards**

- As a result of their BSS-earning history, the number of sideboarded fishing vessels totaled 227;
- the number of LLP groundfish licenses to which sideboards apply was originally 57, but one license revocation reduced this number to 56.

### **Community Protection Program**

- The Program includes several measures to protect revenues and employment in fishery-dependent coastal communities with a history of participation in these fisheries. These measures take the form of geographic landing requirements and/or transfer restrictions on IFQ, PQS, and IPQ in five of the nine Program fisheries. There were no changes to these CR features during 2008/09.

## Safety and Compliance

### *The USCG:*

- sailed 3,912 cutter hours (163 underway cutter days).
- deployed aircraft 143 days, flying 308 aircraft hours.
- conducted 34 at-sea boardings, 69 dockside compliance checks, found no significant violations.
- conducted one Search and Rescue (SAR) case and reported one fatality in the fishing fleet. A crewmember, entangled in gear, fell overboard and died fishing for Tanner crab.

### *The NOAA Office of Law Enforcement (OLE) reported:*

- one vessel delivered north region snow crab to a south region port in an incident related to Bering Sea ice conditions near St. Paul.
- OLE received, but did not grant, several requests for waivers from the regional delivery requirements.
- OLE and two partnering agencies found 15 IFQ account overages (i.e., in 1.9% of 787 offloads)

## Catch Monitoring

There was no change in the number of motion-compensated scales from the previous year, and no major problems were reported with the hopper scales during the 2008/09 crab fisheries.

- NOAA Fisheries received 14 Catch Monitoring Plans (CMPs) for inspection and approval, the same number of CMPs as in the 2007/08 fishing year.

## Reporting

### *eLandings*

- 895 CR Program landings were made:
  - 108 for Adak and CDQ fisheries, slightly higher than the prior year
  - 787 for IFQ fisheries, of which:
    - 761 IFQ reports were submitted using eLandings.

### *Economic Data Collection Program (EDR)*

The EDR program is focused on collecting production, cost, earnings, and employment information from harvesting and processing sectors of crab fisheries to evaluate effects of the Program over time. High compliance indicates the EDR requirement is routine for active participants.

- 108 persons had EDR requirements for calendar year 2008; all submitted full EDRs or certifications.
- The number of EDRs submitted totaled 104.

## Loans

- With authority to provide loans to captain and crew and Council recommendations available for consideration, NOAA Fisheries' CR loan program process is nearing completion.

## Fees and Cost Recovery

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), costs for management and enforcement of IFQ programs are recoverable from participants, up to a maximum of 3 percent of the ex-vessel value of the crab.

- The estimated value of the fishery (based on what we billed for 2008/09) was \$212,412,973.
- RAM sent 22 RCRs estimated fee liability statements for total Program costs of \$3,195,760
- Contracts/Training and Personnel remain among the highest Program costs.
- The fee percentage for the 2008/09 crab-fishing year was 1.05 percent due to residual funds left over from the prior year.



*Handout -  
agenda item  
dropped*

December 13, 2009

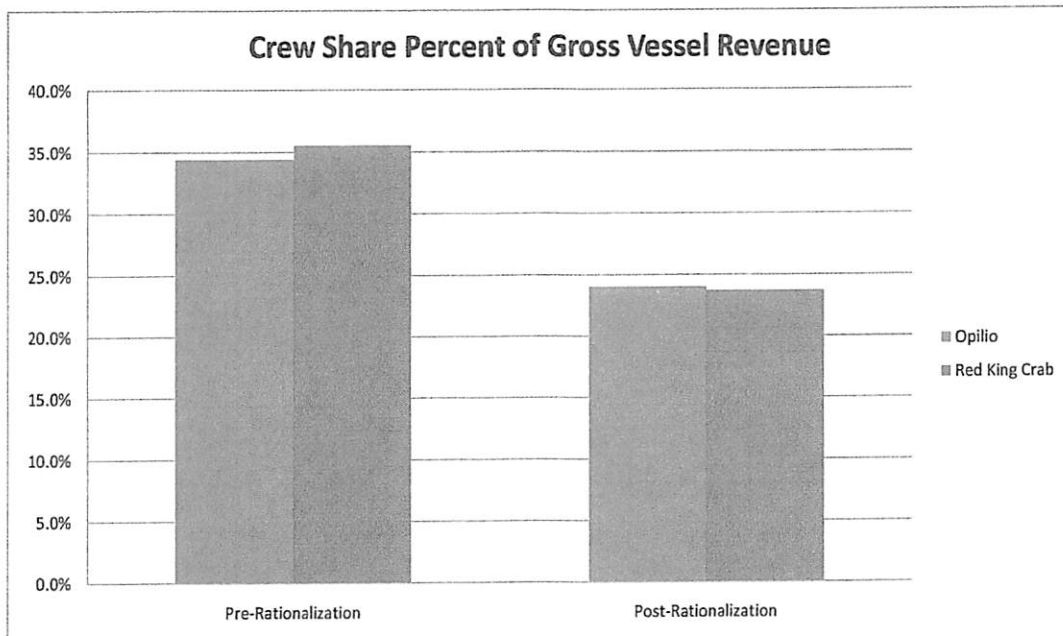
Eric A. Olsen, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501

Agenda C-6(a): Crab Rationalization Amendment Package Alternatives

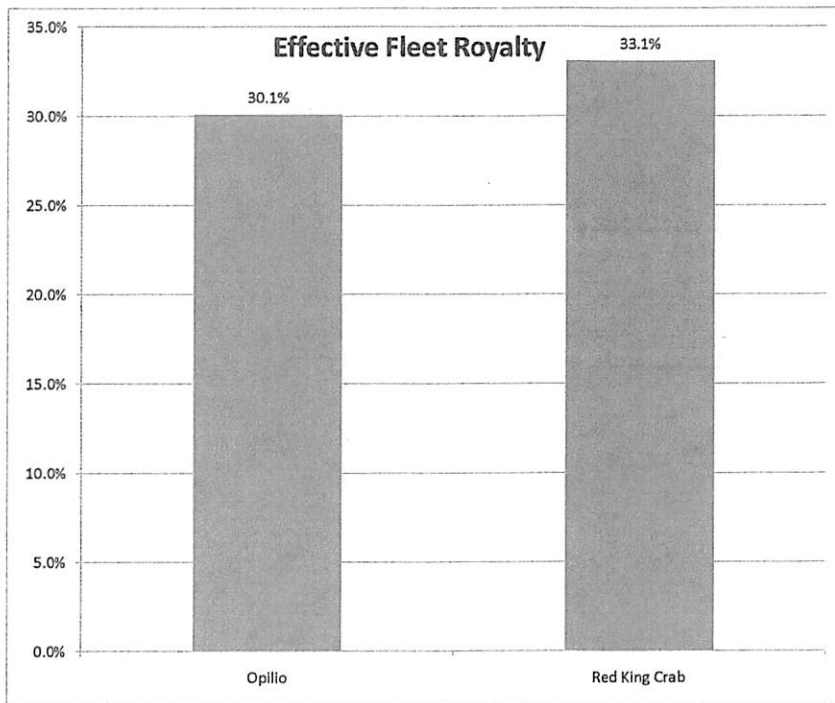
At the June, 2009 NPFMC meeting, Council staff presented an analysis entitled, "Leasing Practices in North Pacific Fisheries" (hereafter referred to as Analysis). The Analysis is based on the mandatory crab rationalization program Economic Data Reports (EDRs) to evaluate how quota share (QS) leasing provisions have impacted crew men. The following are four key charts that have been developed based on data from the Analysis as well as discussion with industry members.

Table 4 on page 7 of the Analysis shows the percent of gross vessel revenues paid to crew for representative pre rationalization years as well as post rationalization years through 2007. The Analysis shows that on average, crew made 34.4% for opilio and 35.5% of the gross revenues for red king crab during the pre rationalization years, versus 24.1% of the gross revenues for opilio and 23.8% of the gross revenues for red king crab during post rationalization years. See the first chart below.

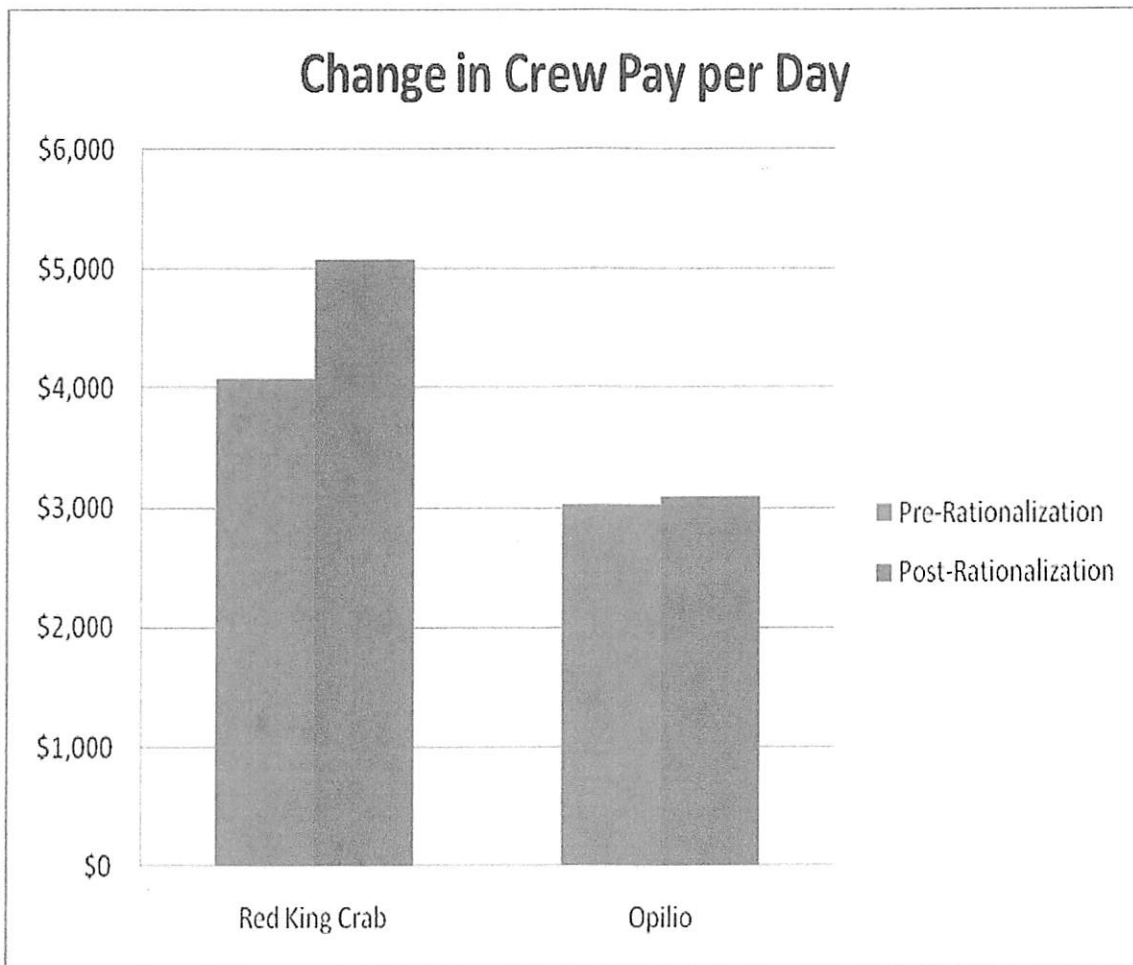
The important point to be made in this presentation is that even though there has been consolidation and leasing of IFQ post rationalization, the percent of the gross revenues the crew receives is surprisingly high. Some have speculated that gross crew shares for red king crab may have shrunk by over half due to leasing, but this is simply not the case. The industry standard is to not charge any royalty on initial issuance quota held by quota share holders that are operating vessels and that contributes greatly to the strength of the gross crew share after rationalization.



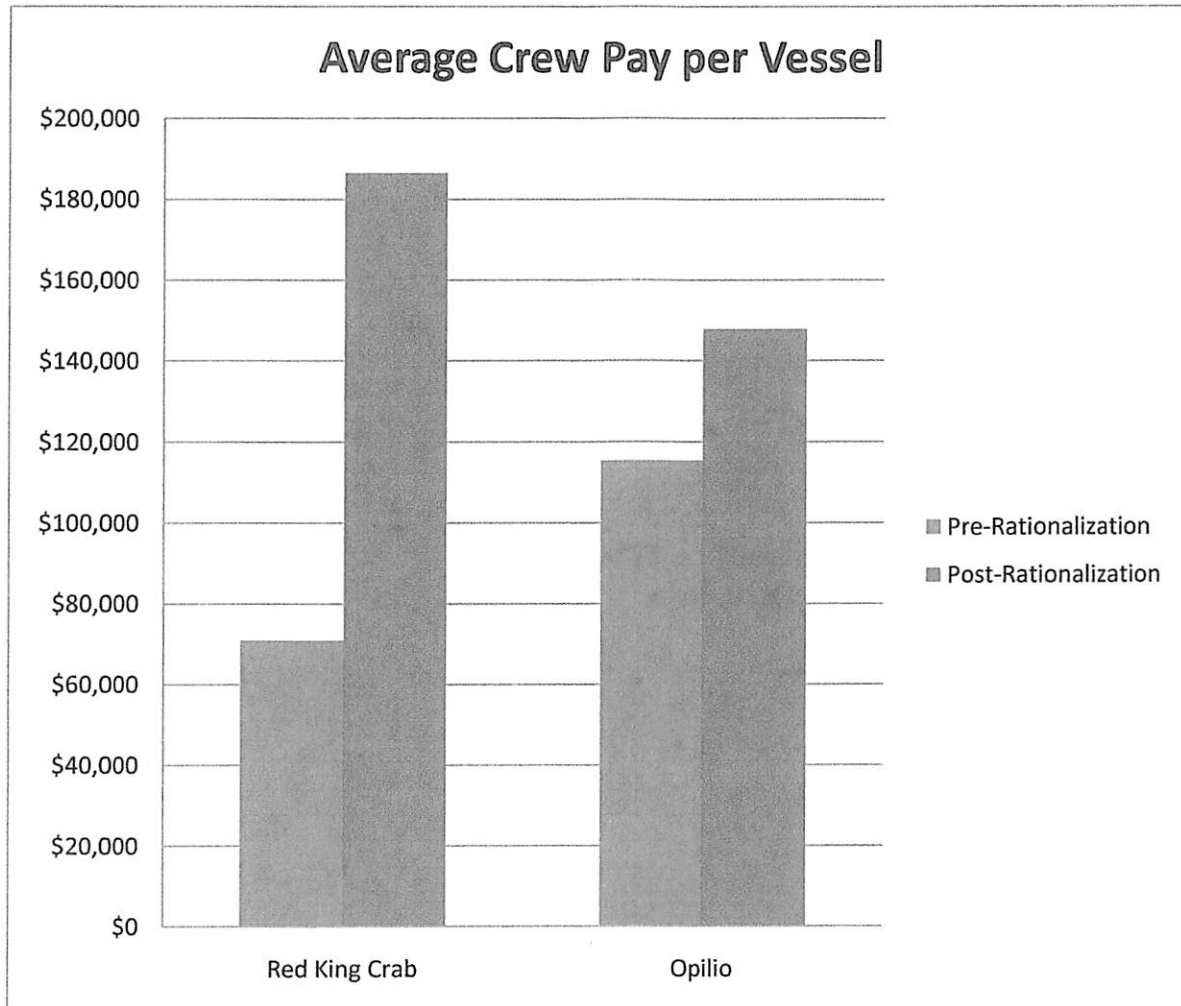
The second chart below also based on the Analysis calculates an average royalty percentage for the entire fleet - or an "Effective Fleet Royalty". The Effective Fleet Royalty is an overall royalty percentage that is calculated by spreading the royalty costs across the entire operating, fleet, and including all quota whether it is leased or it is initially allocated QS, with no royalty charge. It is derived from the Analysis, table 4 on page 7 which shows the mean crew share as a percentage of the gross revenue pre and post rationalization. The Analysis shows there are very few changes to crew share other than royalties charged after rationalization, so changes to crew share are largely a result of royalties. The Effective Fleet Royalty is derived by calculating the difference between the mean crew share pre and post rationalization. The Effective Fleet Royalty for opilio has been 30.1% on average whereas for red king crab it is 33.1%. It is particularly notable that the red king crab Effective Fleet Royalty is as low as it is, considering public perception that average royalties for this fishery have soared to 78%.



The third chart below shows the change in total average crew pay per day pre and post rationalization. This is based on a supplemental table of the Analysis, presented at the June 2009 NPFMC meeting. The average crew working on a red king crab vessel earns approximately \$1,000 more per day worked, post rationalization. This may be surprising for some, after hearing the public perception of the 78 percent lease rates for this fishery. What this chart shows is that the efficiencies generated by the crab program benefit not only the vessel owner but also the crew. Opilio average crew share per day is up just slightly post rationalization. I expect the crew share per day to jump substantially when 2008 data is included, as fishery performance for those years was phenomenal and prices had recovered from a worldwide slump that began the same year the crab program was implemented.



The fourth and final chart shows the total annual crew pay for the average vessel both pre rationalization and post rationalization. This is based on Table 4, page 7 of the Analysis. It is not surprising that annual crew pay per vessel has increased substantially for both red king crab and opilio, considering the average crew pay per day is up slightly for opilio and strongly for red king crab. Absent the race for fish, seasons have lengthened and the average vessel fishes more days, which also contributes to increased crew shares. Again, this shows that the efficiency benefits that quota share holders are receiving from the crab rationalization program are also resulting in benefits to crew through better pay.



In summary, based on the NPFMC leasing analysis from June 2009, which uses audited EDR data, it is obvious that on average the crab program has been a net positive for the active crab crew from a strictly financial perspective... when also considering the benefits of safety, stability, and conservation, the program has been extremely successful.

Sincerely,

Edward Poulsen