


MEMORANDUM

TO: Council, SSC, and AP Members
FROM: Chris Oliver 
Executive Director
DATE: September 23, 2002
SUBJECT: Crab Management

ESTIMATED TIME
8 HOURS
For all C-1 Items

ACTION REQUIRED

- (b) Receive committee reports - arbitration, captains quota share, and data collection
- (c) Initial review of trailing amendments
- (d) Receive update on crab environmental impact statement (EIS) progress and Congressional action

BACKGROUND

(b) Committee Reports

The arbitration committee, the captains quota share committee, and the data collection committee will each deliver a report to the Council. The Council chair appointed three committees to develop three aspects of the crab rationalization program as trailing amendments to the June 2002 Council motion. These committees will report to the Council on their progress in developing options and recommendations for Council consideration. The report of the arbitration committee (Item C-1(b)(1)) and the report of the captains quota share committee (Item C-1(b)(2)), including the options developed by the respective committees, are attached. The report of the data collection committee will be provided to the Council at the meeting.

(c) Initial review of Trailing Amendments

The Council identified the following five trailing amendments to the preferred rationalization program for consideration at this meeting:

- 1) Alternative protections for communities. These include alternatives that would require community /permission for processing activity to leave a community, a first-right-of-refusal to CDQ groups and community groups on sales of IPQs, and a cap on the allocation of IPQs. The analysis examines the benefits to communities and the effects of these alternatives on both the processing and harvesting sectors.
- 2) Mandatory binding arbitration. A system of binding arbitration could be used to resolve failed price negotiations between harvesters and processors. Several different models are proposed for consideration, ranging from a system of fleet wide arbitration to a system in which individual IFQ holders could initiate arbitration proceedings with an IPQ holder. The analysis

examines potential of the different systems to efficiently and fairly resolve price disputes in the rationalized fishery.

- 3) Captains quota shares (C shares) Three percent of harvest shares will be allocated to captains. Several different options are proposed for determining eligibility to receive shares, governing share transfers and use, and limiting ownership of C shares. The analysis examines the different options and their effects on captains, harvesters, processors, and regions through the interactions of the C share program with other aspects of the rationalization program.
- 4) Sideboard protections. Sideboard options are proposed to limit the efforts of BSAI crab fishers in the Gulf of Alaska Pacific cod fisheries. In addition, the need for sideboards to protect participants in the Korean hair crab fishery is assessed.
- 5) Data collection. A system to collect economic data for evaluating the success of the rationalization program is proposed. The analysis examines the types of data for collection, the system for collecting those data, and protecting confidentiality. This analysis will be in the Council notebooks or delivered at the meeting.

(d) EIS Progress Report

To take final action on the preferred rationalization program, an EIS evaluating the program and alternative management of the BSAI crab fisheries must be completed. Staff of National Marine Fisheries Service (NOAA Fisheries), the Council, and the State of Alaska Department of Fish and Game are currently preparing a draft of the EIS for Council review at the December meeting. Staff will update the Council on the status of that draft. In addition to completion of the EIS, several aspects of the preferred rationalization program are not currently authorized by statute. Staff will update the Council on the status of any Congressional action concerning the rationalization program.

Draft Report of the Working Group on Binding Arbitration

Principles Behind Binding Arbitration

Problem Statement

The working group on binding arbitration has proposed the following problem statement justifying the development of the binding arbitration system:

Issuing harvesting and processing quota raised concerns regarding changes in bargaining power between the harvesting and processing sectors in ex-vessel price formation. Binding arbitration is a mechanism intended to address that issue, and to help achieve the goals articulated in the North Pacific Council's Crab Rationalization Problem Statement.

The fundamental issue to be addressed by a system of binding arbitration is the change in bargaining power between the harvest and processing sectors in a rationalized fishery. The Council intends to develop a rationalization program that "maintains healthy harvesting and processing sectors." In addition, "the system should seek to achieve equity between the harvesting and processing sectors, including healthy, stable and competitive markets."

In the current crab fisheries, harvesters often negotiate prices collectively at the beginning of each season. Harvesters have used two strategies for leverage during these price negotiations. In some seasons, harvesters have delayed the beginning of fishing after the opening of the season to pressure processors to pay a higher price for harvests. At other times harvesters have promised additional deliveries to the processor that offered an acceptable price to induce higher offers. The ability of harvesters to use these collective inducements could be limited in a fishery with an extended season and processor allocations. In addition, neither harvesters nor processors believe that delaying fishing is in the best interest of either sector. Binding arbitration is intended to provide an additional method of determining an equitable or competitive price is obtained for sales of crab in a rationalized fishery, given the limited harvesting and processing markets that would be available under a system that allocates both harvest and processing privileges.

The system of binding arbitration should protect all participants in the crab fisheries. Harvesters and processors alike should trust the system of binding arbitration. The system should also provide both parties with effective means of enforcing an arbitrator's decision.

Because the protection of harvesters and processors with a system of binding arbitration could be accomplished in many ways, the committee views its charge as developing a set of alternative arbitration structures and options within those structures that provide for effective system of arbitration. To that end, the committee has developed the alternative structures and options that appear below. The brief discussion is intended to clarify the intent of the committee in the development of the options. Because these structures and options would protect participants in different ways, each with its own merits, selection of the preferred method is not simple and will require full analysis. It is the committee's intention to provide these as potential structures and options for analysis and possible adoption after deliberation.

The document concludes with a discussion of the administration of the system of binding arbitration and the oversight role of NOAA Fisheries.

Alternative Binding Arbitration Structures

The committee developed the following 5 binding arbitration alternatives for Council consideration:

- I. *A structure of one arbitration per processing firm, with harvesters using one mandated collective bargaining association that would submit one last and final offer on behalf of all IFQ holders. Sub-options for this structure include*
 - a. *Can either be pre-season or at any time the processor is first forced to arbitration.*
 - b. *Instead of mandating a collective bargaining association, the structure could require one last best offer from all IFQ holders (without mandating belonging to the association).*
 - c. *IFQ holders not participating can either have the protection of the arbitration (last man standing is protected) or not (last man standing does not receive the benefit of the arbitration).*

- II. *A structure of one arbitration event per processing firm, but with multiple arbitrations allowed. Under this system, arbitration would occur at one time, using one arbitrator, per processor, but any individual IFQ holder or group of IFQ holders could force arbitration of their individual last/best offer. Sub-options for this structure include:*
 - a. *Can be collective bargaining by harvesters or individual or both. If individuals can arbitrate, there would be a notice and joinder opportunity for all harvesters to join into arbitration.*
 - b. *Can either be pre-season (only) or at any time the processor is first forced to arbitration.*
 - c. *If an IFQ holder is not part of the arbitration, it can still get the benefit of the minimum price established. The sub-options are the lowest, mean or highest arbitrated price.*

- III. *A structure of multiple arbitration events per processing firm only at firm times.*
 - a. *The sub-options for when arbitration is allowed include temporal (such as every two months, or one event one month before the end of the season) or market related (if the market changes up or down over 5%, for example).*
 - b. *It is assumed that any IFQ holder may join in the arbitration.*
 - c. *It is assumed that any IFQ holder has the benefit of the last arbitration. The sub-options are the same as I.c.*

- IV. *A structure of multiple arbitration events per processing firm. Under this structure, arbitration could occur at the election of any quota holder at any time. Sub-options for this structure include:*
 - a. *Can be collective bargaining by harvesters or individual or both.*
 - b. *There may be standards that must be met in order to require arbitration, such as a minimum amount of IFQ to cause arbitration.*

- V. *A structure establishing a "fleet wide" single arbitration event.*
 - a. *The system would not use "last best offer" but rather the arbitrator could pick any final price the arbitrator wanted.*
 - b. *It would require that the arbitrator develop a formula pricing system*
 - c. *It would require revenue by processor be given to the arbitrator to use in developing the formula. It could require costs by processor be given to the*

arbitrator to use in developing the formula. Cost information from both sectors could be required to determine the distribution of revenues from product developments and improvements.

- d. *The formula could either adjust weekly with changes in market prices or establish a base or minimum price paid at the time of delivery and adjustment after product sales are completed.*

The committee believes that alternative IV, which permits IFQ holders to initiate numerous different arbitration proceedings with each IPQ holder is an unworkable option. Allowing unlimited proceedings is likely to be very costly and disruptive to the fisheries.

Options for Consideration

This section presents the options developed by the committee in italics and a brief discussion of those options in standard font.

Market Report

Within 30 days prior to the opening of each crab fishery an independent market analyst selected by the mutual agreement of the sectors will present to both sectors and all designated arbitrators an analysis of the market for products of that fishery.

The market analysis is intended to provide transparency of markets and form the basis for negotiations. The analysis should reduce posturing by the parties in negotiations and provide an arbitrator with background on market conditions. Class B share ex vessel prices, once established, should also constitute a part of the information of the report. The timing of the report should be decided at a later date because season openings may change and the value of the report is likely to depend on markets that are time sensitive. The committee, as a whole, supports the use of a market report for the developing transparency in the price negotiations.

Selection of the Administrator, Arbitrator (and Market Analyst, if applicable)

The market analyst and administrator will be selected by mutual agreement of the PQS holders and the QS holders. PQS holders collectively must agree and QS holders collectively must agree.

A single arbitrator will be selected for each IPQ holder to arbitrate all price disputes between that IPQ holder and any IFQ holder. The arbitrator will be selected by the agreement of the IPQ holder and

- a) *the IFQ holders that made deliveries to the IPQ holder in the preceding fishery or*
- b) *IFQ holders that have committed deliveries to the IPQ holder in the upcoming season.*

Suboption: If a program is selected that provides for a single arbitration event with all IPQ holders participating, the selection of the arbitrator will require the agreement of all IPQ holders.

Suboption: If the two sectors are unable to agree on an arbitrator, administrator, or market analyst, each sector will choose an arbitrator, and the two so chosen will choose a third arbitrator, market analyst, and administrator. The three arbitrators will make arbitration decisions as a panel.

Agreement of a group of IFQ (or all IPQ) holders will be by a majority vote with:

- 1. one vote per IFQ (or IPQ)*
- 2. one vote per IFQ (or IPQ) holder*

The arbitrator, administrator, and market analyst will be selected ____ days before the beginning of the season.*

**The timing of the selection will depend on the model selected.*

The administrator, market analyst, and arbitrators should be independent persons agreed to by the parties. The appropriate rule for identifying the IFQ holders participate in the selection of an arbitrator for proceedings with a single IPQ holder depend on the timing of the selection and the stability of participation and delivery patterns. The committee supports a system for selection of the arbitrator, market analyst, and administrator (if necessary), which requires the agreement of both sectors or the selection by two arbitrators, one chosen by each sector.

Shares subject to binding arbitration (1st paragraph of Structure)

This binding arbitration system shall address price disputes between holders of Class A IFQ and holders of IPQ. Binding arbitration does not apply to the negotiation of price for deliveries under the IFQ class B shares.

Because of the allocation of both harvesting and processing shares for crab harvested with Class A shares, the committee believes that transactions for delivery of Class A crab are most in need of arbitration to establish a fair, equitable, or competitive price.

Shares of processor affiliates

Option 1

Holders of IFQs that are affiliated with processors are not eligible to participate in the arbitration process. Processor affiliation will be determined using the threshold rule with percent thresholds of 10, 25, and 50 percent.

Option 2

Entities that are partially owned by processor affiliates will be permitted to participate in arbitration, however, the participation will apply only to a share of IFQs equal to the ownership share of owners not affiliated with a processor (e.g., if an entity owning any part of a processor owns a 75 percent interest in 100 IFQs, the nonaffiliated owner of those IFQs may participate in arbitration with 25 shares.

Option 3

Participation of processor affiliates in binding arbitration as IFQ holders will be determined by any applicable rules governing anti-trust. Any parties eligible for collective bargaining under the Fishermen's Marketing Act of 1934 will be eligible to participate in binding arbitration.

The intention of this provision is to prevent IPQ holders from participating in arbitration as IFQ holders. Participation of processor affiliates in binding arbitration as IFQ holders could influence the arbitrator's decision and raise antitrust concerns. Option 1 would use a threshold rule for determining processor affiliation that would prevent participation as an IFQ holder. Option 2

would allow IFQ holders that own shares collectively with processors to participate in the arbitration with respect to their interest in the commonly held shares. Option 3, the preferred alternative of the committee, would rely on anti-trust rules for determining whether a processor affiliate could participate in arbitration. The committee believes that the current anti-trust exemption should be adequate for ensuring the separation of sector interests required for an effective binding arbitration program. In addition, any other rule would require an anti-trust exemption, which could be politically sensitive and should be the subject of extensive debate and potential revision at several levels. Reliance on current anti-trust exemptions would be a more certain, reliable protection against the conflicting interests of participation of processors in arbitration as IFQ holders.

The Committee recognizes that option 3 may prevent some IFQ holders that are affiliated with processors from participating in the price formation process even though they have historically done so through the collective bargaining association. While acknowledging the interest of those IFQ holders, the need to protect the interests of independent IFQ holders is paramount.

Timing of Arbitration

The volatile markets for crab products require that the arbitration process be conducted very close to the beginning of the season. Consequently, many time sensitive elements of the program, such as notices and responses, have relatively short time periods.

Share Matching Period

The process of binding arbitration will begin 45 days prior to the beginning of each crab season. On that date, a share matching period will begin between IFQ holders that have agreed to deliver and IPQ holders that have agreed to accept crab to be harvested with Class A IFQs.. During the share matching period, the parties will negotiate the terms of delivery of crab harvested with the committed Class A IFQs. This share matching period will expire 14 days prior to the beginning of the applicable season.

Suboption A

IFQ holders that have agreed to deliver crab to an IPQ holder may, but are not required to negotiate collectively during the share matching period.

Suboption B

IFQ holders that have agreed to deliver crab to an IPQ holder will negotiate collectively by a representative selected by a majority vote of the committed IFQ holders with:

- 1. one vote per IFQ*
- 2. one vote per IFQ holder*

This share matching period is intended to induce IFQ holders and IPQ holders to match shares. The two suboptions represent alternative approaches to the negotiation.

Notice of Unsubscribed IPQs

If the share matching period expires without agreements subscribing all IPQs held by an IPQ holder, the IPQ holder must notify the administrator of the amount of IPQs which are not subscribed. The administrator will notify all IFQ holders of the number of unsubscribed IPQs for each IPQ holder.

Commitment of IFQs

At the end of the share matching period, an IFQ holder that has not agreed to deliver all of its shares to a processor may commit any uncommitted shares to any processor that holds unsubscribed IPQs by notifying the IPQ holder of the intent to commit shares. Receipt of the notice shall result in the subscription of IPQs. The IPQ holder shall notify the administrator on receipt of commitments for all of its IPQs. The administrator shall then notify all IFQ holders that the IPQ holder is fully subscribed.

After the share matching period, any IFQ holder may commit shares to an IPQ holder by notice to the IPQ holder. The IPQ holders will be subscribed on a first come-first served basis until the IPQ holder is fully subscribed. The notice requirement is intended to provide the administrator and all IFQ holders with notice that the IPQ holder has no available IPQs.

Initiation of Arbitration

Option 1

Any time after the end of the share matching period a committed IFQ holder can initiate arbitration by notice to the administrator and the IPQ holder. The administrator will notify all IFQ holders of impending arbitration.

Option 2

Arbitration may be initiated by any committed IFQ holder at any time between the expiration of the share matching period and

- 1. 14 days prior to the opening date of the season or*
- 2. 30 days prior to the end of the season.*

Option 3

On conclusion of a negotiated price for any shares, the IFQ and IPQ holders will notify the administrator of the completion of the contract (but not the terms). Any shares for which contracts have not been completed 14 days prior to the opening date of the season will automatically be subject to arbitration.

Joining and Exiting Arbitration

Any IFQ holder with uncommitted shares may join arbitration by notice to an IPQ holder of commitment of IFQs by providing notice to the administrator and the IPQ holder within 20 days of the date of the notice of impending arbitration. Entry of new IFQ holders to the arbitration will be limited to the amount of unsubscribed IPQs.

At no time after entry to the arbitration process may an IFQ holder withdraw from participation in the arbitration.

Arbitration could be requested at any time after a specified number of days before an opening. The process would be started by a harvester that commits to deliver harvests to a processor holding unsubscribed IPQs. To broaden the number of participants, all harvesters with IFQs that are not committed to a processor will be notified of the pending arbitration. A window of time will be designated during which harvesters will be permitted to join the arbitration by committing deliveries to the IPQ holder.

Standard for Arbitration

Option 1

The arbitration decision will attempt to make an equitable division of rents in the fishery (using the historic division of revenues as a surrogate for the division of rents for existing product forms).

Option 2

The arbitration decision will attempt to set a competitive or fair market price for crab delivered.

Option 3

The arbitrator shall consider relevant factors in making an arbitration decision, including but not limited to:

- a. Historical ex vessel prices and division of revenues*
- b. Current ex vessel prices (including prices for Class A and Class B shares recognizing the different nature of the different share classes)*
- c. Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing)*
- d. Innovations and developments of the different sectors and the participants in the arbitration (including new product forms)*
- e. Efficiency and productivity of the different sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure)*
- f. Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings)*
- g. The interest of maintaining financially healthy and stable harvesting and processing sectors*
- h. Safety*
- i. Timing and location of deliveries*

Option 4

The primary role of the arbitrator shall be to establish a price that preserves the historical division of revenues in the fisheries while considering the following factors:

- a. Current ex vessel prices (including prices for Class A and Class B shares recognizing the different nature of the different share classes)*
- b. Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing)*
- c. Innovations and developments of the different sectors and the participants in the arbitration (including new product forms)*
- d. Efficiency and productivity of the different sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure)*
- e. Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings)*
- f. The interest of maintaining financially healthy and stable harvesting and processing sectors*
- g. Safety*
- h. Timing and location of deliveries*

The committee discussed the standard to be applied by the arbitrator for making a decision. As a precursor to the discussion, the committee discussed the purpose of arbitration. The committee generally supports the use of arbitration as a means to protect all participants in the fishery. This end could be accomplished by establishing a base price or a formula price that could include several variables. The committee has discussed the issue at several meetings but has struggled with developing a standard that would effectively protect both parties while accommodating innovations in the fisheries. The discussion focused on a few specific standards, particularly "a competitive price" and "an equitable division of rents". Attempting to arrive at a competitive price or an equitable division of rents was thought to be an abstraction that might be difficult for an arbitrator working with a fishery where participation is limited by fishing and processing privileges. A potential way to overcome this difficulty in dividing rents would be to use the division of revenues as a surrogate for rents. Applying an "equitable division of rents" standard, however, was also thought to have the potential to deter innovation by ensuring rents for inefficient participants. Because of the difficulties with using rents or competitive prices for the standard, Option 3 or Option 4 are proposed as alternatives by the committee. Applying an "equitable division of rents" standard, however, was also thought to have the potential to deter innovation by ensuring rents for inefficient participants. Because of the difficulties with these standards, Option 3 or Option 4 are proposed as alternatives by the committee. Both contain a non-comprehensive list of pertinent information that would be relied upon by the arbitrator in reaching a decision in place of a particular standard. The list of pertinent factors would not constrain the arbitrator from consideration of other relevant factors but would provide a starting point and foundation which could be extended by other pertinent information. Option 4 provides additional definition by directing the arbitrator to decide a price that maintains the historical division of revenues in the fishery, while considering several other factors. These additional factors would include product developments and efficiency gains, the benefits of which should generally be distributed to each sector based on the contribution of the sector to those benefits.

Terms included in the Final Offer and Evidence Considered

Option 1

Each final offer shall include the following terms plus any other pertinent terms identified by the parties:

1. *Price*
2. *Quantity*
3. *Quality*
4. *Acceptable delivery dates*
5. *Location of delivery*
6. *Product outputs of the processor and their prices*

(Select any or all of 1. to 6.)

The final offer shall be:

1. *fixed values of each term, or*
2. *a formula that includes each term as a variable or fixed term and may be a revenue sharing formula.*

Each party will be permitted to submit any evidence that that party believes is relevant to the arbitration proceeding.

Option 2

Within 3 days after the decision to arbitrate the parties will meet with the arbitrator to determine:

- a. The terms to be included in the final offers to the arbitrator and any terms that can be stipulated by the parties. Terms could include the amount of crab to be delivered, the date of the deliveries, the price (which could subject to vary with delivery date, quality, and possibly other factors), quality, and any other terms deemed pertinent by the parties and the arbitrator. In addition, the form of the final offers shall be agreed. Possible forms are a fixed minimum price for crab delivered subject to the applicable terms or a price formula that includes each applicable term as a variable.*
- b. Appropriate evidence to be considered in the arbitration. This evidence could include historical ex vessel and market prices, historical division of revenues and rents, costs of harvesting and production, and any other evidence deemed relevant by the parties and the arbitrator.*

If the parties do not agree on the terms to be included in the final offers and the evidence to be submitted at arbitration, the arbitrator will decide those terms and that evidence.

The committee favors a formula price (possibly a revenue sharing arrangement) over a fixed price. A fixed price could be a barrier to the arbitration decision effectively protecting IFQ holders that do not participate in the arbitration but make share commitments after completion of the arbitration process. A formula could accommodate changes in circumstances (such as delivery times and market changes) that might be relevant in price setting but cannot be captured by a fixed price.

The nature of the final offers and evidence to be considered in final arbitration must be decided. The two options reflect different philosophy as to the development of those offers and evidence. The first option would establish a set of specific terms to be included in final offers and specific evidence to be considered by the arbitrator. The committee believes that the terms listed in Option 1 are appropriate terms to arbitrate. The second option would allow the parties together with the arbitrator develop the terms of the final offers and the relevant offers on a case-by-case basis.

Submission and Selection of Final Offers

Option 1

The IPQ holder and each IFQ holder participating in an arbitration proceeding will submit a final offer. For each IFQ holder, the arbitrator will select from the IPQ holder's final offer and the final offer of that IFQ holder. IFQ holders may submit collective bids at their discretion.

Option 2

The IPQ holder will submit a final offer to the arbitrator. All IFQ holders participating in the arbitration will collectively submit a final offer to the arbitrator. The arbitrator will choose one of these two final offers, which will apply to all participants in the arbitration. The terms of the offer submitted by the IFQ holders will be determined by a majority vote of the IFQ holders participating with:

1. one vote per IFQ
3. one vote per IFQ holder

Option 3

Once 50 percent of the unaffiliated IPQs of a processor are subscribed, committed IFQ holders will have the option of collectively entering binding arbitration by selection of an agent to represent the IFQ holders. To proceed collectively, the agent must be selected by a 50-75 percent vote of subscribed IFQ holders with:

1. one vote per IFQ
2. one vote per IFQ holder

The IPQ holder and the agent of the IFQ holders will each submit a final offer. The arbitrator will select from the IPQ holder's final offer and the final offer of the IFQ holder's agent. The processor and all IFQ holders delivering to the processor will be bound by the finding of the arbitration.

Suboption: In the event that the IFQ holders have not selected an agent to represent them in arbitration within 14 days of the opening of a season, IFQ holders may individually initiate binding arbitration subject to the rules of Option 1.

Under Option 1 all IFQ holders participating in binding arbitration can act as an individual, with one final offer per IFQ holder. After the participating harvesters are fully identified, the arbitration will occur, with each participant submitting a single best offer. The IPQ holder will submit a single offer and each IFQ holder will submit a single offer. For each IFQ holder, the arbitrator must choose between the last offer of the IFQ holder and the IPQ holder.

Option 2 would require all IFQ holders to act collectively submitting a single bid applicable to all shares involved in the proceeding. Two rules are proposed for defining the selection of a final offer by participating IFQ holders.

Under Option 3, arbitration is conducted collectively by IFQ holders, once a specified number of IFQ holders consent to the identified agent. All IFQ holders that deliver to a processor after binding arbitration are bound by the findings of the arbitration.

Transferability of benefits of arbitration to other IFQ holders

If an IFQ holder does not join in an arbitration with an IPQ holder, but ultimately delivers crab to the IPQ holder, the IFQ holder will receive at a minimum, the terms of the:

1. lowest arbitrated price with that IPQ holder
2. mean arbitrated price with that IPQ holder
3. highest arbitrated price with that IPQ holder
4. the IFQ holder's choice of the final offers selected at the arbitration with that IPQ holder.

Any price applied to deliveries by an IFQ holder not participating in arbitration will be subject to time and delivery limitations and other terms specified in the selected final offer.

Suboption: In addition, the IPQ holder shall retain 2 percent or \$0.05 per pound, which shall be used to defer the shared costs of administration of the program.

Any IFQ holder that does not join the arbitration proceeding will be entitled to deliver harvests to the IPQ holder receiving a minimum price established by the arbitration. Allowing non-participants (who hold Class A IFQs) the benefit of the arbitrator's decision has the effect of dispersing the benefits of arbitration across the fleet. An arbitration decision, however, would bind only the participating IPQ holder. If arbitration system is adopted that permits IFQ holders to submit several different offers several different arbitrated prices could exist. The choice of which offer will apply to an IFQ holder that did not participate in the arbitration process is important in establishing the protection of IFQ holders (particularly if a system with a single arbitration each season is adopted). A few alternatives are proposed. The highest, lowest or mean price could be applied. The difficulty with these prices is that if arbitration establishes formula prices, the highest, lowest, and mean offer could vary over time subject to changes in the different parameters of the formula. Allowing the IFQ holder to select the applicable price would overcome this difficulty. In addition, the chosen price would permit the IFQ holder to obtain the full benefits of the arbitration process without participating. Arguments that this is excessive might not be appropriate since the offer was in fact selected by the arbitrator. Any offer applied to a nonparticipating IFQ holder would be applied to the IFQ holder subject to any limitations and other terms in the offer. For example, if a price is contingent on delivery during a certain window of time or a limited quantity, those terms would apply. These limitations could be critical to an IPQ holder purchasing crab for a particular customer who demands a limited quantity of crab at a specific time. The suboption could be applied in the case of the fleet collectively arbitrating the price in a single proceeding. This provision would be used to compel an IFQ holder to participate in arbitration. Since the person would benefit from arbitration, the provision is intended to provide some compensation to those that participate.

Limits on the Use of Binding Arbitration

Option 1

Each IPQ holder shall be limited to one arbitration per season with one arbitrator.

Option 2

Each IPQ holder can be subject to arbitration initiated by any IFQ holder that commits to deliver to the IPQ holder 0-40 percent of the IFQs held regardless of whether that IPQ holder has participated in other binding arbitration proceedings in that season. All arbitration proceedings will be decided by the single arbitrator selected for that IPQ holder.

Option 3

An IPQ holder is required to participate in only one arbitration per season, unless the season exceeds 60-90 days in which case the IPQ holder may be required to participate in a second arbitration 30 days before the end of the season, if the IPQ holder has unsubscribed shares.

Option 4

An IPQ holder may be brought to arbitration at least once in any season, but no more than twice in a season. A second arbitration may be initiated at any time 60-90 days or more after the decision in the first arbitration provided the IPQ holder has:

- 1. received commitments for less than 80-90 percent of its unaffiliated IPQs at the time of the first arbitration and/or*
- 2. has in excess of:*
 - a. less than 75,000 pounds of unaffiliated, uncontracted IPQ for a of TAC < 3 million pounds,*

- b. 75,000 to 150,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 3-8 million pounds,
- c. 150,000-250,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 8-10 million pounds,
- d. 250,000-500,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 10-25 million pounds,
- e. 500,000-1,000,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 25-75 million pounds,
- f. 1,000,000-2,000,000 pounds of unaffiliated, uncontracted IPQ for a of more than TAC 75 million pounds

The IFQ holder initiating the arbitration has committed to deliver to the IPQ holder at least 0-40 percent of that IFQ holders total (or uncommitted) IFQ holdings and/or at least

- a. 20,000 pounds of unaffiliated, uncontracted IPQ for a of TAC < 3 million pounds,
- b. 20,000 to 40,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 3-8 million pounds,
- c. 40,000-60,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 8-10 million pounds,
- d. 60,000-75,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 10-25 million pounds,
- e. 75,000-150,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 25-75 million pounds,
- f. 150,000-250,000 pounds of unaffiliated, uncontracted IPQ for a of more than TAC 75 million pounds

In the second arbitration, all notice of rules and joinder of additional IFQ holders rules applicable to the first arbitration shall apply.

The first option contemplates a single arbitration for each IPQ holder. This could be used to limit the expense of arbitration to processors. The second option is intended to provide a more individual protection to each harvester's interests. The second option might be preferable if non-participating IFQ holders cannot derive benefits from arbitration proceedings undertaken by others. The third option is intended to overcome disruptions to business planning that could occur if the IPQ holder has to participate in multiple arbitrations. In most fisheries, one arbitration per IPQ holder should be sufficient to establish a fair price. In a long fishery, a second arbitration might be reasonable. In a long fishery, the parties might even wish to revisit a price (even a formula price) if changes in the market or fishery justify a price change. The fourth option is intended to permit a second arbitration for IFQ holders that are late to commit. The requirement of outstanding unsubscribed IPQs would ensure that the arbitration is for a significant amount of deliveries. In addition, the requirements are intended to allow arbitration in cases where the first arbitration could be for a limited amount of the processors IPQs and therefore may be inadequate for establishing a price for all IFQ holders.

Payment for the Arbitration and Market Analysis

The payment for the market analysis, the arbitrators, and the administrator will be shared equally by the two sectors. Within each sector the analysis shall be paid for on a pro rated basis determined by the shares held by the members of the sector. Cost shall be shared by all participants in all fisheries.

Participants in the binding arbitration will each pay the costs of their own participation. Within the harvest sector, payment shall be pro rated based on the number of IFQs committed to the participating processor.

Option 1

For shared costs, the payment of those costs shall be advanced by IPQ holders. The IPQ holders will collect the IFQ holders' portion of the shared costs by adding a pro rated surcharge to all deliveries of Class A crab.

Option 2

Administration of payments will be accomplished by allocation of a share of the cost recovery funds to the binding arbitration program.

Costs of the arbitration program should be shared by the sectors. Each sector, however, should bear the cost of its own participation and representation. The committee favors the use of Option 1 to avoid unnecessary complications and administrative burdens of involving RAM or another agency in the collection and disbursement of arbitration funds. If private administration of this option proves unworkable, industry may request that the Council revisit this issue.

Enforcement of the Arbitration Decision

The decision of the arbitrator will be enforced by:

- 1. civil damages*
- 2. specific performance*
- 3. forfeiture of unused IFQs or IPQs in the fishery for the following season (1 year use-it-or-lose-it) subject to hardship exceptions*

Effective protection will also require careful identification of available remedies for enforcement of the arbitration. Both harvesters and processors could benefit from the certainty that arbitrated findings may provide, if enforcement is adequate and available to both sides. The committee discussed three potential forms of damages that could be made available to parties suffering a breach of the arbitrator's decision – civil damages, specific performance, or loss of IFQs or IPQs. The committee concluded that civil damages should be adequate for enforcing arbitration decisions. Under civil law damages would be based on harm and therefore would be determined based on the specific circumstances. In addition, civil damages would require parties to take reasonable steps to mitigate damages, so participants could not take advantage of a breach by another party. The use of specific performance receive little discussion as most of the committee believed that forcing a harvester to fish or a processor to process would be infeasible. A use-it-or-lose-it provision was thought to be a potentially elegant solution to the problem. Such a provision could be implemented in two ways. First, a "no fault" provision would result in both parties losing their shares for a year. The committee, however, concluded that the loss of shares could impact the two parties differently, offsetting the bargaining positions and balance of market power. Alternatively, a system could forfeit the shares of the breaching party for a year. A fault based system, however, could be difficult to administer since adjudication and appeals processes could be time consuming. In addition, adjudications could overly complicate administration of annual share allocations for RAM. For these reasons, the "use-it-or-lose-it" provision was viewed as potentially problematic. The committee, however, believes that the Council might be interested in having the ability to implement a use-it-or-lose-it provision in the future should problems arise in the enforcing arbitrated prices through civil damage claims.

Oversight and Administration of the Binding Arbitration Program

An effective binding arbitration program will require careful oversight and administration. A system of rules will define the program. The realization of the program's goals will depend in large part on whether these rules function effectively and have their intended effects. To mitigate unintended effects, the program will need to be adaptable. Adaptation is particularly important given the novelty of the program. Two general approaches to administration of the program are possible. Under the first approach, NOAA Fisheries and the Council would have a very active role in administering and monitoring the details of the program. Under the second approach, favored by the committee, industry would be required to comply with reporting requirements providing NOAA Fisheries and the Council with the information necessary to assess the success of the program and to rectify fundamental shortcomings in the program. Administration would be undertaken primarily by industry, avoiding government involvement in pricing setting and providing greater flexibility to adopt agreed to modifications without government action. The committee supports the following statement concerning administration and oversight:

Oversight and administration of the binding arbitration should be conducted in a manner similar to the AFA cooperative administration and oversight. System reporting requirements and administrative rules should be developed in conjunction with the Council and NOAA Fisheries after selection of the preferred program.

Under the first administration alternative, NOAA Fisheries would oversee the details of the program. Administration under this approach presents several problems, many of which are raised in the legal analysis of binding arbitration that appears in Section 3.7.1 of the Bering Sea/Aleutian Islands Crab Rationalization Program Alternatives. First, the Council and NOAA Fisheries would be required to develop detailed rules governing the binding arbitration process, using the standard APA regulatory process. Once the program is implemented, NOAA Fisheries would oversee the day-to-day operation of the program, attending to the details of any required notices and possibly overseeing hearings. The agency would be required to follow the public process requirements of the APA, resulting in very long response times. This level of oversight is likely to be expensive for the agency and could result in significant agency involvement in the details of price negotiations. Extensive government involvement in private contracts could be viewed as overly intrusive. This approach would also require the Council and NOAA Fisheries to fine tune the rules of the program. Some of these changes could be fundamental to the program and therefore are the province of the Council and are best decided through the Council process. Other provisions, however, are likely to be less controversial and pertain to the general operation of the program. For example, the parties may decide that a notice period is either too long or short, interfering with the parties' ability to reach a negotiated agreement. Altering such a provision through the Council process or through some other procedure administered through NOAA Fisheries would likely be costly, cumbersome, and time consuming and could be an obstacle to the program achieving its objectives.

The second alternative for administration and oversight would be patterned after NOAA Fisheries administration of the AFA cooperatives. NOAA Fisheries oversight of the cooperatives focuses on elements of that program that are important to public management of the fisheries. Cooperatives are required to report harvests, bycatch, discards, monitoring procedures, and penalties in an annual report to the Council and NOAA Fisheries. On a more general level operations of the cooperatives are overseen by requiring cooperatives to file a copy of the cooperative's contract 30 days prior to beginning fishing under the contract. These reporting requirements provide NOAA Fisheries and the Council with information necessary for

determining whether the program is functioning effectively. In the case of binding arbitration, requirements could be developed for the filing of signed arbitration agreements and price contracts, best offers, identifying the agreed upon arbitrator and independent market analyst, and similar general requirements of the program. General reporting requirements and a general oversight role for NOAA Fisheries should provide both NOAA Fisheries and the Council with the information necessary to determine whether the program is serving its stated purpose without creating cumbersome requirements for modification and operation of the program. Under this model, minor modifications could be adopted by the parties without direct involvement of NOAA Fisheries or the Council. The scope of these permitted changes could be defined by the Council and NOAA Fisheries and could be limited to aspects of the program that are less appropriate for government involvement. Limiting government involvement will remove some of the restrictive requirements of public decision making. The parties could petition the Council for changes in the program, if they believed that it was not serving its purpose or needed modification. This approach should be favored because it will limit government involvement in price formation and simplify modifications that are agreeable to both parties.

Options for a System of Binding Arbitration

Problem Statement

Issuing harvesting and processing quota raised concerns regarding changes in bargaining power between the harvesting and processing sectors in ex-vessel price formation. Binding arbitration is a mechanism intended to address that issue, and to help achieve the goals articulated in the North Pacific Council's Crab Rationalization Problem Statement.

Alternative Binding Arbitration Structures

The following alternative arbitration structures were developed by the committee for consideration. Strawman descriptions of each structure are provided in Appendix A.

2.8.3.1

- I. *A structure of one arbitration per processing firm, with harvesters using one mandated collective bargaining association that would submit one last and final offer on behalf of all IFQ holders. Sub-options for this structure include*
 - a. *Can either be pre-season or at any time the processor is first forced to arbitration.*
 - b. *Instead of mandating a collective bargaining association, the structure could require one last best offer from all IFQ holders (without mandating belonging to the association).*
 - c. *IFQ holders not participating can either have the protection of the arbitration (last man standing is protected) or not (last man standing does not receive the benefit of the arbitration).*

- II. *A structure of one arbitration event per processing firm, but with multiple arbitrations allowed. Under this system, arbitration would occur at one time, using one arbitrator, per processor, but any individual IFQ holder or group of IFQ holders could force arbitration of their individual last/best offer. Sub-options for this structure include:*
 - a. *Can be collective bargaining by harvesters or individual or both. If individuals can arbitrate, there would be a notice and joinder opportunity for all harvesters to join into arbitration.*
 - b. *Can either be pre-season (only) or at any time the processor is first forced to arbitration.*
 - c. *If an IFQ holder is not part of the arbitration, it can still get the benefit of the minimum price established. The sub-options are the lowest, mean or highest arbitrated price.*

- III. *A structure of multiple arbitration events per processing firm only at firm times.*
 - a. *The sub-options for when arbitration is allowed include temporal (such as every two months, or one event one month before the end of the season) or market related (if the market changes up or down over 5%, for example).*
 - b. *It is assumed that any IFQ holder may join in the arbitration.*
 - c. *It is assumed that any IFQ holder has the benefit of the last arbitration. The sub-options are the same as I.c.*

- IV. *A structure of multiple arbitration events per processing firm. Under this structure, arbitration could occur at the election of any quota holder at any time. Sub-options for this structure include:*
 - a. *Can be collective bargaining by harvesters or individual or both.*
 - b. *There may be standards that must be met in order to require arbitration, such as a minimum amount of IFQ to cause arbitration.*

- V. *A structure establishing a "fleet wide" single arbitration event.*
 - a. *The system would not use "last best offer" but rather the arbitrator could pick any final price the arbitrator wanted.*
 - b. *It would require that the arbitrator develop a formula pricing system*

- c. *It would require revenue by processor be given to the arbitrator to use in developing the formula. It could require costs by processor be given to the arbitrator to use in developing the formula. Cost information from both sectors could be required to determine the distribution of revenues from product developments and innovations.*
- d. *The formula could either adjust weekly with changes in market prices or establish a base or minimum price paid at the time of delivery and adjustment after product sales are completed.*

Options for Consideration

The committee developed the options listed below for consideration. After each option, the alternative structures to which the option applies to are identified. The fleet wide structure (Structure V) was developed independently from the other structures. The options that formulate that alternative structure appear at the end of the listed options.

2.8.3.2

Market Report

Within 30 days prior to the opening of each crab fishery an independent market analyst selected by the mutual agreement of the sectors will present to both sectors and all designated arbitrators an analysis of the market for products of that fishery. (Applies to all alternatives)

2.8.3.3

Selection of the Administrator, Arbitrator (and Market Analyst, if applicable)

The market analyst and administrator will be selected by mutual agreement of the PQS holders and the QS holders. PQS holders collectively must agree and QS holders collectively must agree. (Applies to all alternatives)

A single arbitrator will be selected for each IPQ holder to arbitrate all price disputes between that IPQ holder and any IFQ holder. The arbitrator will be selected by the agreement of the IPQ holder and

- a) *the IFQ holders that made deliveries to the IPQ holder in the preceding fishery or*
- b) *IFQ holders that have committed deliveries to the IPQ holder in the upcoming season. (Applies to Alternatives I, II, III, and IV)*

Suboption: If the two sectors are unable to agree on an arbitrator, administrator, or market analyst, each sector will choose an arbitrator, and the two so chosen will choose a third arbitrator, market analyst, and administrator. The three arbitrators will make arbitration decisions as a panel. (Applies to all alternatives)

Agreement of a group of IFQ (or all IPQ) holders will be by a majority vote with:

- 1. *one vote per IFQ (or IPQ)*
- 2. *one vote per IFQ (or IPQ) holder (Applies to all alternatives)*

*The arbitrator, administrator, and market analyst will be selected ____ * days before the beginning of the season. (Applies to all alternatives)*

**The timing of the selection will depend on the model selected.*

2.8.3.4

Shares subject to binding arbitration

This binding arbitration system shall address price disputes between holders of Class A IFQ and holders of IPQ. Binding arbitration does not apply to the negotiation of price for deliveries under the IFQ class B shares. (Applies to all alternatives)

2.8.3.5

Shares of processor affiliates

Option 1

Holders of IFQs that are affiliated with processors are not eligible to participate in the arbitration process. Processor affiliation will be determined using the threshold rule with percent thresholds of 10, 25, and 50 percent.

Option 2

Entities that are partially owned by processor affiliates will be permitted to participate in arbitration, however, the participation will apply only to a share of IFQs equal to the ownership share of owners not affiliated with a processor (e.g., if an entity owning any part of a processor owns a 75 percent interest in 100 IFQs, the nonaffiliated owner of those IFQs may participate in arbitration with 25 shares.

Option 3

Participation of processor affiliates in binding arbitration as IFQ holders will be determined by any applicable rules governing anti-trust. Any parties eligible for collective bargaining under the Fishermen's Marketing Act of 1934 will be eligible to participate in binding arbitration. (Applies to all alternatives)

2.8.3.6

Timing of Arbitration

2.8.3.6.1

Share Matching Period

The process of binding arbitration will begin 45 days prior to the beginning of each crab season. On that date, a share matching period will begin between IFQ holders that have agreed to deliver and IPQ holders that have agreed to accept crab to be harvested with Class A IFQs.. During the share matching period, the parties will negotiate the terms of delivery of crab harvested with the committed Class A IFQs. This share matching period will expire 14 days prior to the beginning of the applicable season. (Applies to Alternatives I, II, III, and IV)

Suboption A

IFQ holders that have agreed to deliver crab to an IPQ holder may, but are not required to negotiate collectively during the share matching period. (Applies to Alternatives I, II, III, and IV)

Suboption B

IFQ holders that have agreed to deliver crab to an IPQ holder will negotiate collectively by a representative selected by a majority vote of the committed IFQ holders with:

- 1. one vote per IFQ*
- 2. one vote per IFQ holder (Applies to Alternative I)*

2.8.3.6.2

Notice of Unsubscribed IPQs

If the share matching period expires without agreements subscribing all IPQs held by an IPQ holder, the IPQ holder must notify the administrator of the amount of IPQs which are not subscribed. The administrator will notify all IFQ holders of the number of unsubscribed IPQs for each IPQ holder. (Applies to Alternatives I, II, III, and IV)

2.8.3.6.3

Commitment of IFQs

At the end of the share matching period, an IFQ holder that has not agreed to deliver all of its shares to a processor may commit any uncommitted shares to any processor that holds unsubscribed IPQs by notifying the IPQ holder of the intent to commit shares. Receipt of the notice shall result in the subscription of IPQs. The IPQ holder shall notify the administrator on receipt of commitments for all of its IPQs. The administrator shall then notify all IFQ holders that the IPQ holder is fully subscribed. (Applies to Alternatives I, II, III, and IV)

2.8.3.6.4

Initiation of Arbitration

Option 1

Any time after the end of the share matching period a committed IFQ holder can initiate arbitration by notice to the administrator and the IPQ holder. The administrator will notify all IFQ holders of impending arbitration. (Applies to Alternatives II, III, and IV)

Option 2

Arbitration may be initiated by any committed IFQ holder at any time between the expiration of the share matching period and

- 1. 14 days prior to the opening date of the season or*
- 2. 30 days prior to the end of the season. (Applies to Alternative IV)*

Option 3

On conclusion of a negotiated price for any shares, the IFQ and IPQ holders will notify the administrator of the completion of the contract (but not the terms). Any shares for which contracts have not been completed 14 days prior to the opening date of the season will automatically be subject to arbitration. (Applies to Alternatives I and II)

2.8.3.6.5

Joining and Exiting Arbitration

Any IFQ holder with uncommitted shares may join arbitration by notice to an IPQ holder of commitment of IFQs by providing notice to the administrator and the IPQ holder within 20 days of the date of the notice of impending arbitration. Entry of new IFQ holders to the arbitration will be limited to the amount of unsubscribed IPQs. (Applies to Alternatives I, II, III, and IV)

At no time after entry to the arbitration process may an IFQ holder withdraw from participation in the arbitration. (Applies to Alternatives I, II, III, and IV)

2.8.3.7

Standard for Arbitration (all options apply to all alternatives)

Option 1

The arbitration decision will attempt to make an equitable division of rents in the fishery (using the historic division of revenues as a surrogate for the division of rents for existing product forms).

Option 2

The arbitration decision will attempt to set a competitive or fair market price for crab delivered.

Option 3

The arbitrator shall consider relevant factors in making an arbitration decision, including but not limited to:

- a. Historical ex vessel prices and division of revenues*
- b. Current ex vessel prices (including prices for Class A and Class B shares recognizing the different nature of the different share classes)*
- c. Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing)*
- d. Innovations and developments of the different sectors and the participants in the arbitration (including new product forms)*
- e. Efficiency and productivity of the different sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure)*
- f. Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings)*
- g. The interest of maintaining financially healthy and stable harvesting and processing sectors*
- h. Safety*
- i. Timing and location of deliveries*

Option 4

The primary role of the arbitrator shall be to establish a price that preserves the historical division of revenues in the fisheries while considering the following factors:

- a. Current ex vessel prices (including prices for Class A and Class B shares recognizing the different nature of the different share classes)*
- b. Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing)*
- c. Innovations and developments of the different sectors and the participants in the arbitration (including new product forms)*
- d. Efficiency and productivity of the different sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure)*
- e. Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings)*
- f. The interest of maintaining financially healthy and stable harvesting and processing sectors*
- g. Safety*
- h. Timing and location of deliveries*

2.8.3.8

Arbitration Proceedings and Findings

Terms included in the Final Offer and Evidence Considered

Option 1

Each final offer shall include the following terms plus any other pertinent terms identified by the parties:

- 1. Price*
 - 2. Quantity*
 - 3. Quality*
 - 4. Acceptable delivery dates*
 - 5. Location of delivery*
 - 6. Product outputs of the processor and their prices*
- (Select any or all of 1. to 6.)*

The final offer shall be:

- 1. fixed values of each term, or*
- 2. a formula that includes each term as a variable or fixed term and may be a revenue sharing formula.*

Each party will be permitted to submit any evidence that that party believes is relevant to the arbitration proceeding. (Applies to Alternatives I, II, III, and IV)

Option 2

Within 3 days after the decision to arbitrate the parties will meet with the arbitrator to determine:

- a. The terms to be included in the final offers to the arbitrator and any terms that can be stipulated by the parties. Terms could include the amount of crab to be delivered, the date of the deliveries, the price (which could subject to vary with delivery date, quality, and possibly other factors), quality, and any other terms deemed pertinent by the parties and the arbitrator. In addition, the form of the final offers shall be agreed. Possible forms are a fixed minimum price for crab delivered subject to the applicable terms or a price formula that includes each applicable term as a variable.*
- b. Appropriate evidence to be considered in the arbitration. This evidence could include historical ex vessel and market prices, historical division of revenues and rents, costs of harvesting and production, and any other evidence deemed relevant by the parties and the arbitrator.*

If the parties do not agree on the terms to be included in the final offers and the evidence to be submitted at arbitration, the arbitrator will decide those terms and that evidence. (Applies to Alternatives I, II, III, and IV)

3.8.3.9

Submission and Selection of Final Offers

Option 1

The IPQ holder and each IFQ holder participating in an arbitration proceeding will submit a final offer. For each IFQ holder, the arbitrator will select from the IPQ holder's final offer and the final offer of that IFQ holder. IFQ holders may submit collective bids at their discretion. (Applies to Alternatives II, III, and IV)

Option 2

The IPQ holder will submit a final offer to the arbitrator. All IFQ holders participating in the arbitration will collectively submit a final offer to the arbitrator. The arbitrator will choose one of these two final offers, which will apply to all participants in the arbitration. The terms of the offer submitted by the IFQ holders will be determined by a majority vote of the IFQ holders participating with:

1. one vote per IFQ
3. one vote per IFQ holder (Applies to Alternative I)

Option 3

Once 50 percent of the unaffiliated IPQs of a processor are subscribed, committed IFQ holders will have the option of collectively entering binding arbitration by selection of an agent to represent the IFQ holders. To proceed collectively, the agent must be selected by a 50-75 percent vote of subscribed IFQ holders with:

1. one vote per IFQ
2. one vote per IFQ holder

The IPQ holder and the agent of the IFQ holders will each submit a final offer. The arbitrator will select from the IPQ holder's final offer and the final offer of the IFQ holder's agent. The processor and all IFQ holders delivering to the processor will be bound by the finding of the arbitration. (Applies to Alternative I)

Suboption: In the event that the IFQ holders have not selected an agent to represent them in arbitration within 14 days of the opening of a season, IFQ holders may individually initiate binding arbitration subject to the rules of Option 1. (Applies to Alternative I)

2.8.3.10

Transferability of benefits of arbitration to other IFQ holders

If an IFQ holder does not join in an arbitration with an IPQ holder, but ultimately delivers crab to the IPQ holder, the IFQ holder will receive at a minimum, the terms of the

1. lowest arbitrated price with that IPQ holder
 2. mean arbitrated price with that IPQ holder
 3. highest arbitrated price with that IPQ holder
 4. the IFQ holder's choice of the final offers selected at the arbitration with that IPQ holder.
- Any price applied to deliveries by an IFQ holder not participating in arbitration will be subject to time and delivery limitations and other terms specified in the selected final offer. (Applies to Alternatives I, II, III, and IV)

Suboption: In addition, the IPQ holder shall retain 2 percent or \$0.05 per pound, which shall be used to defer the shared costs of administration of the program. (Applies to Alternatives I, II, III, and IV)

2.8.3.11

Limits on the Use of Binding Arbitration

Option 1

Each IPQ holder shall be limited to one arbitration per season with one arbitrator. (Applies to Alternatives I and II)

Option 2

Each IPQ holder can be subject to arbitration initiated by any IFQ holder that commits to deliver to the IPQ holder 0-40 percent of the IFQs held regardless of whether that IPQ holder has participated in other binding arbitration proceedings in that season. All arbitration proceedings will be decided by the single arbitrator selected for that IPQ holder. (Applies to Alternative IV)

Option 3

An IPQ holder is required to participate in only one arbitration per season, unless the season exceeds 60-90 days in which case the IPQ holder may be required to participate in a second arbitration 30 days before the end of the season, if the IPQ holder has unsubscribed shares. (Applies to Alternative III)

Option 4

An IPQ holder may be brought to arbitration at least once in any season, but no more than twice in a season. A second arbitration may be initiated at any time 60-90 days or more after the decision in the first arbitration provided the IPQ holder has:

- 1. received commitments for less than 80-90 percent of its unaffiliated IPQs at the time of the first arbitration and/or**
- 2. has in excess of:**
 - a. less than 75,000 pounds of unaffiliated, uncontracted IPQ for a of TAC < 3 million pounds,**
 - b. 75,000 to 150,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 3-8 million pounds,**
 - c. 150,000-250,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 8-10 million pounds,**
 - d. 250,000-500,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 10-25 million pounds,**
 - e. 500,000-1,000,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 25-75 million pounds,**
 - f. 1,000,000-2,000,000 pounds of unaffiliated, uncontracted IPQ for a of more than TAC 75 million pounds**

The IFQ holder initiating the arbitration has committed to deliver to the IPQ holder at least 0-40 percent of that IFQ holders total (or uncommitted) IFQ holdings and/or at least:

- g. 20,000 pounds of unaffiliated, uncontracted IPQ for a of TAC < 3 million pounds,**
- h. 20,000 to 40,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 3-8 million pounds,**
- i. 40,000-60,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 8-10 million pounds,**
- j. 60,000-75,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 10-25 million pounds,**
- k. 75,000-150,000 pounds of unaffiliated, uncontracted IPQ for a of TAC 25-75 million pounds,**
- l. 150,000-250,000 pounds of unaffiliated, uncontracted IPQ for a of more than TAC 75 million pounds**

In the second arbitration, all notice of rules and joinder of additional IFQ holders rules applicable to the first arbitration shall apply. (Applies to Alternatives III)

2.8.3.12

Payment for the Arbitration and Market Analysis

The payment for the market analysis, the arbitrators, and the administrator will be shared equally by the two sectors. Within each sector the analysis shall be paid for on a pro rated basis

determined by the shares held by the members of the sector. Cost shall be shared by all participants in all fisheries. (Applies to all alternatives)

Participants in the binding arbitration will each pay the costs of their own participation. Within the harvest sector, payment shall be pro rated based on the number of IFQs committed to the participating processor. (Applies to all alternatives)

Option 1

For shared costs, the payment of those costs shall be advanced by IPQ holders. The IPQ holders will collect the IFQ holders' portion of the shared costs by adding a pro rated surcharge to all deliveries of Class A crab. (Applies to all alternatives)

Option 2

Administration of payments will be accomplished by allocation of a share of the cost recovery funds to the binding arbitration program. (Applies to all alternatives)

2.8.3.13

Enforcement of the Arbitration Decision

The decision of the arbitrator will be enforced by:

1. civil damages
2. specific performance
3. forfeiture of unused IFQs or IPQs in the fishery for the following season (1 year use-it-or-lose-it) subject to hardship exceptions (Applies to all alternatives)

2.8.3.14

Oversight and Administration of the Binding Arbitration Program

Oversight and administration of the binding arbitration should be conducted in a manner similar to the AFA cooperative administration and oversight. System reporting requirements and administrative rules should be developed in conjunction with the Council and NOAA Fisheries after selection of the preferred program. (Applies to all alternatives)

2.8.3.15

Fleet Wide Arbitration Structure Options (Alternative V)

1. **Arbitrator.** Representatives of the harvesting and processing sectors select an arbitrator. If the two sectors are not able to agree, each sector will choose an arbitrator, and the two so chosen will choose a third arbitrator.
2. **Market Analyst.** The arbitrator(s) select a market analyst, in consultation with representatives of the harvesting and processing sectors.
3. **Data Gathering.** The arbitrator(s) and the market analyst gather data relevant to determining the historical distribution of crab product revenues between harvesters and processors.

Option 1: They also determine (i) the vertical integration of each IPQ holder, and value accrued by the processor at each point up to and including the first point at which it sells on an arm's length basis to a third party (which will serve as the basis for the weekly composite price); and (ii) the variety of crab product forms being produced and the market percentage represented by each product form.

Option 2: The arbitrator(s) and the market analyst gather data they determine necessary for the task, including: (i) crab processing cost structures for each IPQ holder; (ii) vertical integration of each IPQ holder, and value accrued by the processor at each point up to and including the first point at which it sells on an arm's length basis to a third party (which will serve as the basis for the weekly composite price); and (iii) the variety of crab product forms being produced and the market percentage represented by each product form.

Suboption: Cost information from both sectors could be required to determine the distribution of revenues from product developments and innovations.

4. **Initial Discussions/Mediation.** Not less than 90 days before the opening of the first crab fishery of the upcoming year, the arbitrator(s) meet with each processor individually (to address antitrust concerns) and with fleet representatives collectively to discuss the information gathered and to receive any additional information the parties consider relevant.

Option 1: The arbitrator(s) seek consensus among representatives of the harvesting and processing sectors regarding: (i) the third party transactions that will establish the weekly composite price; and (ii) the historical revenue share per sector.

Option 2: The arbitrator(s) seek consensus among representatives of the harvesting and processing sectors regarding: (i) the third party transactions that will establish the weekly composite price; (ii) a formula under which a scaled percentage of the weekly composite price is allocated to the processor component, with the balance being allocated as the ex vessel price to fishers; and (iii) a seasonal advance amount, which is paid by the processor at delivery.

5. **Arbitration.** Not less than 30 days before the first crab fishery opens, the arbitrator(s) stipulate the above-referenced components, if they have not been determined through mediated negotiation.
6. **Implementation.** Throughout the year, the market analyst surveys the crab product market, and produces a weekly composite price based on the survey structure developed by the arbitrator(s). The weekly composite price is a single price per species, based on the weighted average of the arm's length transactions in products produced from that species.

Option 1: For deliveries not subject to a contract, the fisher receives the stipulated percentage of the most recently announced weekly composite price.

Option 2: For deliveries not subject to a contract, the fisher receives the stipulated advance per pound at delivery, and receives a per pound settlement based on the composite price in effect for the week(s) within which products from the fisher's delivery are sold.

Alternative Structures for Binding Arbitration

Alternative Structure I

Summary of the Model: Single arbitration for each IPQ holder with a mandatory collective bargaining association for all IFQ holders delivering to that IPQ holder.

Steps

1. Early preseason - IFQ holders commit the delivery of shares to IPQ holders. Matching of shares will occur on a first come-first served basis.
2. Early preseason - IFQ holders and IPQ holders select market analyst by mutual agreement of the two sectors.
3. 45 days prior to the season - IFQ holders committed to a processor meet to select a representative. Voting rules for the selection process must be defined. IFQ holders that participate in the vote or commit shares after this date may not revoke share commitment.
4. 40 days prior to the season - Representatives of the IPQ holder and IFQ holders meet to select an arbitrator.
5. 30 days prior to the season - Market report is presented by the market analyst. Followed by a negotiation period between the two representatives.
6. 20 days prior to the season - Arbitration is commenced if no agreement is reached. The first meeting with the arbitrator is conducted to discuss evidence to be considered and the form of the two offers. Negotiations proceed after this initial meeting. The arbitrator need not be involved in the negotiations, but if the parties agree then the arbitrator may attend some of the negotiation sessions.
7. 20 days to 10 days prior to the season - IFQ holders with uncommitted shares may join the proceedings by notifying representatives of intent to commit shares to the processor.
8. 10 days prior to the season - If no agreement is reached the two representatives submit their best and final offers.
9. 7 days prior to the season - The arbitrator chooses one of the two final offers.
10. Thereafter - Option - IFQ holders without committed shares may commit shares to the processor, receiving the benefit of the arbitrator's findings (possible charge on each pound delivered to recoup costs of arbitration).

Alternative Structure II

Summary of the Model: Any QS Holder, or group of QS Holders, may arbitrate ex-vessel price with one processor. All arbitrations with that processor will occur at one time and will use a single arbitrator.

Steps

1. Arbitrator. All QS Holders interested in negotiating price with Icicle will get together and talk with Icicle about the selection of the arbitrator. An arbitrator will be selected by the QS Holders and Icicle together. The Arbitrator will do all arbitrations that occur with Icicle.

2. Pre-season. Assume that four QS Holders decide among themselves to negotiate a price with Icicle Seafoods for opilio. (Any number of QS Holders may negotiate and arbitrate together with Icicle, up to the level of Icicle's PQ).
3. Negotiations. The Four QS Holders contact Icicle and begin price discussions. If they are successful, they agree on a deal with Icicle and sign a contract containing the price, quantity of opilio, place and time of delivery and similar conditions. If they are not successful by fourteen days before the season opening(assume January 20), they go to Step Four.
4. Contact Arbitrator(January 6). The four QS Holders call the Arbitrator, tell him that their negotiations with Icicle have failed and that they want to go to arbitration. (If no QS Holders notify the arbitrator at this point, the arbitration can be triggered later by a QS Holder or not used at all if no QS Holder wants to do so).
5. Notice and Schedule. The Arbitrator notifies, in writing, all QS Holders that there will be an Icicle arbitration beginning on January 10. Some other QS Holders decide that they want to arbitrate with Icicle also. The Arbitrator allows other QS Holders to arbitrate, up to the level of Icicle PQ pounds. Once the arbitration begins on January 10, Icicle and the QS Holders who have decided to arbitrate with Icicle are bound to the arbitration decision.
6. Arbitration. On January 10, the Arbitrator meets with the four QS Holders to hear their proposal and any supporting arguments. He may offer them the chance to submit something in writing. The Arbitrator also meets separately with any other QS Holders who want to arbitrate with Icicle, and he meets separately with Icicle. The Arbitrator must choose between the final offers of the Four QS Holders and of Icicle; he may not compromise in the middle. By January 16, the Arbitrator makes his decision and notifies the Four QS Holders and Icicle. The Arbitrator also makes the decisions for all other QS Holders who will deliver to Icicle.
7. Later Opt-In. Assume that another QS Holder did not arbitrate with any processor, but wants to deliver to Icicle. He may simply negotiate a price with Icicle. If negotiations fail, he may notify the Arbitrator that he wants to be covered by an arbitration decision already made with regard to Icicle. If he meets the conditions (Icicle has sufficient PQ to cover the opilio he wants to deliver; place and time of delivery fit, etc.), the Arbitrator will authorize him to be covered. He would not have an opportunity to arbitrate at that point. (There are sub-options on whether this QS Holder could pick and choose among all of the Icicle arbitration decisions, only the lowest, or only a middle price).

Alternative Structure III

Summary of the Model: Any QS-holder may call for multiple arbitrations per processor at designated times agreed upon before the season opens

Steps

1. Cooperative price negotiations: Commence 29-days before season opens
 - Alt. 1: Pre-season price negotiations are completed successfully (contract includes provision for new binding arbitration on 1st of each month if triggered by either QS-holder or PQS-holder)
 - Alt. 2: Pre-season price negotiations break down and Arbitrator is selected and hired at least 2-weeks before season opens. QS-holder and PQS-holder agree up front to allow binding arbitration

on the 1st of every month that the season remains open and the PQS-holder still has unused PQS.

2. **Pre-season binding arbitration:** Begins at least 15-days before season opens using latest market report. Parties formally agree to abide by arbitrators decision, which includes, up front, the right to invoke further binding arbitrations on the first of each month. Arbitrator immediately publishes roster of the parties bound by the arbitration. All parties submit data to arbitrator by 10-days before season opens. Arbitrator interviews all parties by 7-days before season opens. Arbitrator accepts final bid from each party by 6-days before season opens. Arbitrator announces results of binding arbitration by end of the 5th day before season opens.
3. **Opt-in:** With the consent of the PQS-holder, any QS-holder may opt- in to the binding arbitration agreement (which provides for new binding arbitrations at the 1st of each month) as long as the season remains open and the PQS-holder still has unused PQS. The QS-holder commits to the binding arbitration one delivery at a time and reserves his right to deliver subsequent loads to whoever offers the best overall price.
4. **In-season, scheduled arbitrations:** Either party may invoke further binding arbitration on the 1st of each month if dissatisfied with their advance price or final compensation for deliveries made during the previous month. No backward price adjustments will be made for either party, however. By the 3rd day of the new month all parties will submit to the arbitrator any new price data. The Arbitrator will be authorized to select any price within 10%, up or down, of the last price paid before the newest arbitration began. By the 5th day of the new month, the Arbitrator will announce the new ex-vessel price, which will prevail at least until the end of the new month.

Alternative Structure IV

Summary of the Model: Any QS Holder, or group of QS Holders, may call for arbitration of ex-vessel price with one processor who holds IPQs. (Assume season starts January 20th.)

Steps

1. **Market Report:** Market report 30 days before season. (December 24th).
2. **Arbitrator:** The arbitrator will be selected by mutual agreement between the QS holders or IPQ holder 45 days before the start of the season. QS holders that have committed to deliver to the PQ holder will be the only ones to be able to select the arbitrator. (What per cent of QS holders have to be committed to select arbitrator?) (December 9th)
3. **Pre-Season:** Any QS holder or group of QS holders may settle a price with an IPQ holder.
4. **Contact Arbitrator:** Any QS holder or group of QS holders can contract and request arbitration 14 days before the season begins. (January 6th)

Sub options are noted below:

- a. Arbitration with that processor may be requested by any QS holder or group of QS holders.
- b. Arbitration may only occur when ____% of committed QS request arbitration.

5. Notice and Schedule: No more than 5 business days after arbitrator is contacted, the Arbitrator must notify all QS holders there will be an arbitration with an IPQ holder. Any QS holder that commits to deliver to the IPQ holder may join the arbitration. (January 13th)
6. Arbitration Deadline: Immediately following the date deadline for contacting all QS holders, the Arbitrator meets with any QS holder or groups QS holders to hear their proposal and any supporting arguments. He may offer them the chance to submit something in writing. He meets separately with the IPQ holders to hear their proposal and any supporting arguments. The Arbitrator must choose one final offer for each arbitration. (pick one final for each QS holder that submitted a price or group of QS holders and the IPQ holder offer). Four days prior to the season opening date, January 16th, the Arbitrator makes his decision and notifies QS Holders and the IPQ holder. (January 16th)
7. Initiation of Arbitration: At any time during the season a QS holder may commit to deliver to an IPQ holder and request arbitration. The arbitration schedule would follow Notice and Schedule time frame identified here.

Arbitration Structure V

Summary of the Model: A single annual fleet-wide arbitration will be used to establish a revenue sharing formula under which the revenue generated at the first arm's length sale of crab products is distributed between the affected harvester(s) and processor(s).

Steps

1. Arbitrator. Representatives of the harvesting and processing sectors select an arbitrator. If the two sectors are not able to agree, each sector will choose an arbitrator, and the two so chosen will choose a third arbitrator.
2. Market Analyst. The arbitrator(s) select a market analyst, in consultation with representatives of the harvesting and processing sectors.
3. Data Gathering. The arbitrator(s) and the market analyst gather data relevant to determining the historical distribution of crab product revenues between harvesters and processors.

Option 1: They also determine (i) the vertical integration of each IPQ holder, and value accrued by the processor at each point up to and including the first point at which it sells on an arm's length basis to a third party (which will serve as the basis for the weekly composite price); and (ii) the variety of crab product forms being produced and the market percentage represented by each product form.

Option 2: The arbitrator(s) and the market analyst gather data they determine necessary for the task, including: (i) crab processing cost structures for each IPQ holder; (ii) vertical integration of each IPQ holder, and value accrued by the processor at each point up to and including the first point at which it sells on an arm's length basis to a third party (which will serve as the basis for the weekly composite price); and (iii) the variety of crab product forms being produced and the market percentage represented by each product form.

Suboption: Cost information from both sectors could be required to determine the distribution of revenues from product developments and innovations.

4. **Initial Discussions/Mediation.** Not less than 90 days before the opening of the first crab fishery of the upcoming year, the arbitrator(s) meet with each processor individually (to address antitrust concerns) and with fleet representatives collectively to discuss the information gathered and to receive any additional information the parties consider relevant.

Option 1: The arbitrator(s) seek consensus among representatives of the harvesting and processing sectors regarding: (i) the third party transactions that will establish the weekly composite price; and (ii) the historical revenue share per sector.

Option 2: The arbitrator(s) seek consensus among representatives of the harvesting and processing sectors regarding: (i) the third party transactions that will establish the weekly composite price; (ii) a formula under which a scaled percentage of the weekly composite price is allocated to the processor component, with the balance being allocated as the ex vessel price to fishers; and (iii) a seasonal advance amount, which is paid by the processor at delivery.

5. **Arbitration.** Not less than 30 days before the first crab fishery opens, the arbitrator(s) stipulate the above-referenced components, if they have not been determined through mediated negotiation.
6. **Implementation.** Throughout the year, the market analyst surveys the crab product market, and produces a weekly composite price based on the survey structure developed by the arbitrator(s). The weekly composite price is a single price per species, based on the weighted average of the arm's length transactions in products produced from that species.

Option 1: For deliveries not subject to a contract, the fisher receives the stipulated percentage of the most recently announced weekly composite price.

Option 2: For deliveries not subject to a contract, the fisher receives the stipulated advance per pound at delivery, and receives a per pound settlement based on the composite price in effect for the week(s) within which products from the fisher's delivery are sold.

Report of the Captains QS Committee to the Council

Key Aspects of the Committee's Preferred Program

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

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

1.8.1 Options for captain and crews members:

1.8.1.2 Percentage to Captain:

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

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

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

The option to allocate 3 percent of the QS pool to captains is supported by the committee for several reasons. First, this allocation would distribute the burden of C shares equally among all vessel owners. Allocation on a vessel basis would not be distributed equally among all vessel owners but would burden vessel owners that maintained a single captain during the qualifying period the most. In addition, allocation of 3 percent of the QS pool is the only way to ensure that 3 percent of the total pool is allocated to captains in perpetuity. A vessel based allocation would allocate a maximum of 3 percent to captains. Landings by ineligible captains would reduce the total C share allocation from 3 percent.

The allocation of 3 percent of the QS pool to captains simplifies administration of the allocation. Administration of the allocation on a vessel basis would be cumbersome since it would require that a vessel's allocation be finalized prior to finalizing the allocation to its captain.

Allocation of a portion of the QS pool to captains would also be more equitable since a captain's allocation would be based solely on the activities of the captain, independent of the vessels on which the captain fished. For example, allocation on a vessel basis would preclude eligible captains that fish on unqualified vessels from getting an allocation. Landings on unqualified vessels occur when the vessel operates on an interim permit. These landings are legal; however, if allocations are on a vessel basis the captain would not be rewarded since no vessel allocation exists.

An additional benefit of deriving the C share allocation from the QS pool is that it will help build captain/vessel owner relations. Since a captain's allocation comes from a general pool the vessel owner's allocation is not affected by the captain's allocation. Under this system a vessel owner will maximize the total number of shares fished on a vessel by obtaining the largest allocation for the captain. So, a vessel owner and captain have a common interest in maximizing the allocation to the captain. If the captain's allocation comes only from the vessel that the captain fished on, the owner of that vessel would have an interest directly opposed to the captain and could damage vessel owner/captain relations. Under that system, a vessel owner's allocation would be maximized by minimizing its captain's allocation.

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

1.8.1.3 Species specific:

1. As with vessels.

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

1.8.1.4 Eligibility:

Option 1

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

1) having at least one landing in

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

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

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

Suboption: For recency in the Adak red king, Pribilof, St. Matthew, and bairdi fisheries a qualified captain must have at least

a) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in the last two seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).

b) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in one of the last two seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).

c) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in two of the last three seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).

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

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

Option 2

Point System

Point system-following alternative is provided:

1) Participation 1996-2001

**Qualified by delivery in at least two different species
(Maximum 36 points)**

Graduated Scale weights most recent participation

Year	Points Awarded
2001	7 points
2000	7 points
1999	6 points
1998	6 points
1997	5 points
1996	5 points

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

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

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

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

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

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

Option 2 is uses a point system to determine eligibility. This system could also be used to determine allocations. Since the point system has no crediting of catch. Allocations are based solely on participation, which would be verified with fish tickets. The committee believed that a well-crafted point system could be a workable alternative for allocating C shares. This draft of a point system is clearly a first cut and is offered as an alternative only if the Council feels that one should be considered. The committee felt that the participation based method addresses the eligibility determination issue.

1.8.1.5 Qualification period:

1. As with vessels.

1.8.1.6 Distribution per captain:

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

Regionalization and Class A/B Designation

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

Suboptions a. This allocation shall be made off the top and shall not affect the Class A/Class B share split for harvest shares. C

shares shall not be subject to regional designations.

b. *This allocation shall be made from the harvest Class B shares. C shares shall not be subject to regional designations.*

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

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

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

Initial Allocation Regionalization

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

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

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

1.8.1.7 Transferability criteria:

1. Purchase of C QS.

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

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

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

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

2. C share leasing

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

Suboption: limit to the following fisheries only:

Pribilof red and blue crab and St. Matthew blue crab

- b. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of C shares may lease C QS, upon documentation and approval, (similar to CFEC medical transfers) for the term of the hardship/disability or a maximum of 2 years over a 10 year period.**

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

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

1.8.1.8 Loan program for crab QS

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

Loan funds shall be accessible by active participants only.

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

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

The committee supports the loan program. In addition, the committee recommends that the initial funding of \$250,000 be sought, which would be available for loans on

implementation of the rationalization program. Development of funding through the cost recovery program could take as long as three years and significantly affect both purchasers and sellers of C share holders. The proposed initial funding could be used to finance loan money of approximately \$25 million, which would provide stability to the C share market from the outset. The committee supports active participation in the fisheries by any purchaser of shares during the life of any loan used to purchase the shares.

Several details of the loan program will need to be specified prior to implementation of the program. Eligibility criteria for loans, maximum loan amounts, any limitations on the number of shares that can be purchased with loan money all must be determined. The committee requests that the Council direct the committee to continue to work to develop the details of the loan program.

1.8.1.9 Captain/Crew on Board requirements

1. Holders of captain QS or qualified lease recipients are required to be onboard vessel when harvesting IFQ.

2. C QS ownership caps for each species are

Option 1. the same as the individual ownership caps for each species

Option 2. the same as the vessel use caps for each species

Option 3. double the vessel use caps for each species

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

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

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

By exempting C shares from use caps, captains are provided greater mobility and flexibility to move throughout the fleet.

1.8.1.10 C/P Captains

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

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

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

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

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

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

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

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

Binding Arbitration

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

Data collection

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

Options for Captains Quota Shares – (C shares)

1.8.1 Options for captain and crews members:

1.8.1.2 Percentage to Captain:

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

1.8.1.3 Species specific:

- 1. As with vessels.**

1.8.1.4 Eligibility:

Option 1

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

1) having at least one landing in

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

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

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

Suboption: For recency in the Adak red king, Pribilof, St. Matthew, and bairdi fisheries a qualified captain must have at least

- a) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in the last two seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).**
- b) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in one of the last two seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).**
- c) one landing per season in the opilio, BBRKC, or AI brown crab fisheries in two of the last three seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).**

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

For captains who died from fishing related incidents, recency requirements shall be waived and the allocation shall be made to the estate of that

captain. All ownership, use, and transfer requirements would apply to C shares awarded to the estate.

Option 2

Point System

Point system-following alternative is provided:

1) Participation 1996-2001

**Qualified by delivery in at least two different species
(Maximum 36 points)**

Graduated Scale weights most recent participation

Year	Points Awarded
2001	7 points
2000	7 points
1999	6 points
1998	6 points
1997	5 points
1996	5 points

2) Consistent Participation 1996-2001

**Qualified by making total catch in a season for two different species
(Maximum 24 points)**

4 points for each year

3) Vessel Ownership As of January 1, 2002

(Maximum 6 points)

% of Ownership	Points Awarded
1-50%	4 points
51-75%	5 points
76-100%	6 points

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

1.8.1.5 Qualification period:

1. As with vessels.

1.8.1.6 Distribution per captain:

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

Regionalization and Class A/B Designation

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

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

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

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

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

Initial Allocation Regionalization

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

1.8.1.7 Transferability criteria:

1. Purchase of C QS.

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

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

2. C share leasing

- a. C QS are leasable for the first three seasons a fishery is prosecuted after program implementation.**
 - Suboption: limit to the following fisheries only:**
 - Pribilof red and blue crab and St. Matthew blue crab**
- b. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of C shares may lease C QS, upon documentation and approval, (similar to CFEC medical transfers) for the term of the hardship/disability or a maximum of 2 years over a 10 year period.**

1.8.1.8 Loan program for crab QS

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

Loan funds shall be accessible by active participants only.

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

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

program to leverage additional loan funds.

1.8.1.9 Captain/Crew on Board requirements

- 1. Holders of captain QS or qualified lease recipients are required to be onboard vessel when harvesting IFQ.**
- 2. C QS ownership caps for each species are**
 - Option 1. the same as the individual ownership caps for each species**
 - Option 2. the same as the vessel use caps for each species**
 - Option 3. double the vessel use caps for each species**

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

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

1.8.1.10 C/P Captains

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

- Option 1. The same rule applies to C/P C QS if they leave the C/P sector as in section 1.7.2.4.**
- Option 2. C/P C shares shall be useable only on C/Ps.**
- Option 3. C/P C shares may be harvested and processed on C/Ps or harvested on catcher vessels and delivered to shore based processors.**
- Option 4. If C shares are not subject to IPQ delivery requirements, C shares may be harvested and processed on C/Ps or harvested on catcher vessels and delivered to shore based processors.**

1.8.1.11 Cooperatives

C share holders shall be eligible to join cooperatives.

DRAFT

CRAB RATIONALIZATION DATA COLLECTION COMMITTEE REPORT

September 30, 2002

CURRENT DATA COLLECTION EFFORTS

The Committee notes that there are extensive data submission requirements in Federal and State law that relate to many of the areas of concern arising out of the Council motion. The agency staff provided a substantial number of examples of current data submissions and information on who receives the data currently, how it is used, and how it might apply to the new data requirements of the crab plan. The Committee respectfully requests that Federal and State agencies finish canvassing the available sources of data for content and utility for meeting the stated Council needs. Further, we would respectfully request that the agencies develop a flow chart showing the data being provided, the agency receiving the data, and with whom the data is shared. We believe this visual aid will help all parties understand volume of existing data collection requirements, how the data is disseminated, and the potential uses of that data. An example of the type of visual aid we recommend is attached. We believe a document such as this will be useful to the public in commenting on the various options the Council might consider in its final action. Additionally, we request that after final action is taken establishing the data requirements, the Council update this document so that all data submission requirements are collected in one source. We respectfully request that the agencies involved in the collection effort review this package to determine areas of duplication, inconsistency and to identify opportunities to reduce the reporting requirements of industry.

INTRODUCTION

The Committee met many times since the June Council meeting, with most meetings attended by Council, NMFS, and ADF&G staff members. NOAA/GC was also consulted on several occasions. Several meetings concentrated on draft survey forms prepared by NMFS, with industry representatives giving practical advice related to business records. The minutes prepared by Darrell Brannan provide a record of the discussions; this report presents Committee Member recommendations to the Council and a discussion of several areas of concern. Attached to the September 5, 2002 Minutes are copies of detailed position papers submitted by several groups.

COUNCIL DIRECTION

The Council's problem statement states, among other objectives, that the BSAI crab rationalization program should address the social and economic concerns of communities, maintain healthy harvesting and processing sectors while promoting equity between them, promote efficiency, and provide healthy, stable and competitive markets.

The Council's June 10, 2002 Motion states that a mandatory data collection program shall be developed and implemented to provide cost, revenue, ownership and employment data. The Council Motion states that it intends to study the impacts of the program and analyze the economic and social impacts of possible future amendments and that confidentiality must be assured. The Motion further notes the concern industry has over enforcement of the data collection requirements.

Finally, the Council Chairman's letter to Congress states that the program is to include extensive data collection and review programs to assess the success of crab rationalization relative to achieving the stated goals.

COMMITTEE APPROACH

The Committee recognizes the desire of the Council to analyze and review the crab rationalization program after rationalization to fulfill its duty and commitment to be an effective steward of a public resource. The Committee believes that the Council intends to assess the impacts of the rationalization program on the industry and communities mainly by reviewing economic changes from the pre-rationalization status to the post-implementation situation. With that in mind, we submit the following recommendations for a mandatory data collection program, stating, where possible, an industry consensus on the data to be collected, the method of collection, and the verification and enforcement systems to be employed. The committee will also provide commentary on the proprietary nature of the data and the uses for the data that is collected.

GENERAL PRINCIPLES—CONSENSUS VIEWS

1. **Ownership Information.** The owners of Quota Shares, Catcher-Processor Quota Shares, and Processing Quota Shares shall submit to the National Marine Fisheries Service information similar to that required in the halibut/sablefish and AFA pollock programs for the purposes of analyzing and enforcing caps. For purposes of ownership cap analysis, the data required to establish affiliation of entities in the crab program will be similar to the data required to establish affiliation of entities by the proposed rule for the pollock fishery. (The proposed rule appears in the Federal Register, Volume 66, Number 242 (December 17, 2001)).
2. **Historical cost and revenue information.** Historical data is needed as a benchmark for comparing pre- and post-rationalization status of the various sectors affected by crab rationalization. Committee members are concerned that historical data may be difficult and costly to retrieve depending on the years selected and the detail required. For example, requiring simply revenue information for 1996 may very well be possible for most entities, but providing detailed cost information may be very difficult. There have also been sales of assets that may make certain data unavailable. Additionally, some fisheries have been closed for extensive periods of time, making data collection very difficult and problematic. For these reasons, Committee members, who all support the collection of historical data, do not have a consensus on the specific years for historical data collection. We do however recommend the Council consider the following options as the base years for data collection:

DRAFT

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September 30, 2002

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- 1996 – 2001 (all years inclusive)
- Pick three representative years (1996 – 2001)
- The years used may vary depending on the fishery

The Committee also notes that the enforcement standards for submission of historical data must take into consideration the possibility that some data simply may not be available.

3. Crab-Specific Data. All economic data collected should be related only to crab harvesting and processing operations specific to the BSAI crab fisheries under the program. The Council will review and assess the impacts of the crab program, not the overall performance of entities, sectors, and communities in all fisheries.
4. Revenue Data. ADF&G fish ticket data currently provides information on the ex-vessel price paid for crab. Crab processors have already agreed to provide first wholesale revenue data and ex-vessel payments (including adjustments after delivery) for all crab sales. Wholesale revenue data shall include all revenues received on the first transaction of sale by the processing firm. The pounds sold by a processing firm to affiliated entities will also be provided. These two data sets can be consistent across all entities in the harvesting and processing sectors and thus provide one basis for assessing impacts of the program.
5. Employment Data. The processing sector will provide wage information (wages and units of employment such as hours, number of positions) for direct labor associated with each crab species and the Social Security number for each employee. The harvesting sector will provide aggregate crew share data but some sector participants are reluctant to provide information on individuals since they are not employees but rather are independent contractors.
6. Confidentiality. All data provided must be maintained as strictly confidential. Because of the importance of this issue, a separate discussion is laid out below.
7. Data verification. NMFS should be able to review data source documentation to prevent material errors that could affect the utility of analysis. If a third party is used to collect data, then a protocol needs to be developed for data verification through that third party.
8. Enforcement. The Committee generally agrees that the accuracy of data submitted is important and that an enforcement program is warranted.

Committee concerns are expressed below.

AREAS OF CONCERN

1. Employment Data. As noted above, some harvesters are concerned about submitting specific information on individual crewmembers since those individuals are not employees of the boat owner. Harvesters are willing to submit aggregate information on crew shares.
2. Fixed Cost Data. The Committee Members recommend that the Council not require submission of fixed cost information for two reasons. First, fixed cost data when coupled with revenue and variable cost data may allow the analyst to determine profitability of an entity. We do not believe that the Council intended, nor should,

analyze or base management decisions on the profitability of individual entities. Second, the analysis of fixed costs requires an allocation of those costs to crab-specific operations, which is difficult and not consistent from company to company. Businesses allocate fixed costs such as overhead and finance costs in any of several different manners, particularly if the vessel or plant operates in several fisheries. For example, a vessel owner could allocate fixed costs based on days fishing, or per pound of all species, or per ex vessel value of each species. A plant owner could allocate based on value (of purchases or sales), pounds (purchased or produced), or production period (using hours or cost of direct labor, or days or other temporal units of time). An owner of multiple vessels or plants may not even allocate financing costs if he has a single financing package. Although the Council could force each entity to allocate costs on the same basis, that would be burdensome to some owners and could skew a crab-specific analysis. A committee member believes that if complete variable cost information is required then all fixed cost data should also be required as part of a "full disclosure" of all costs and all revenues; the "full disclosure" data should also be provided to the private party Binding Arbitration system.

3. Variable Costs. The processing sector has agreed to submit crab-specific variable cost data (expense amounts and units of measurement). Some other committee members are willing to submit such data for vessels while others believe that such proprietary data is not needed. The latter expressed a belief that other safeguards in the crab program, such as binding arbitration, are adequate protections. One committee member felt that variable costs should be required only as part of a "full disclosure" of all costs (fixed and variable) and all revenues; the "full disclosure" data should also be provided to the private party Binding Arbitration system.
4. Enforcement. NMFS enforcement personnel should be able to periodically review source documents on a random spot basis or for cause. Since the economic data is not needed for crab conservation and is not time-sensitive, penalties should be related to the magnitude of an infraction. Adequate time must be provided for reporting seasonal or annual data; committee members recommend a minimum of four months for submission of economic data. Penalties should be limited to the "knowingly and willfully" standard of 16 U.S.C. (1)(I) and to material misinformation that would have a significant impact on the accuracy of the analysis.

CONFIDENTIALITY

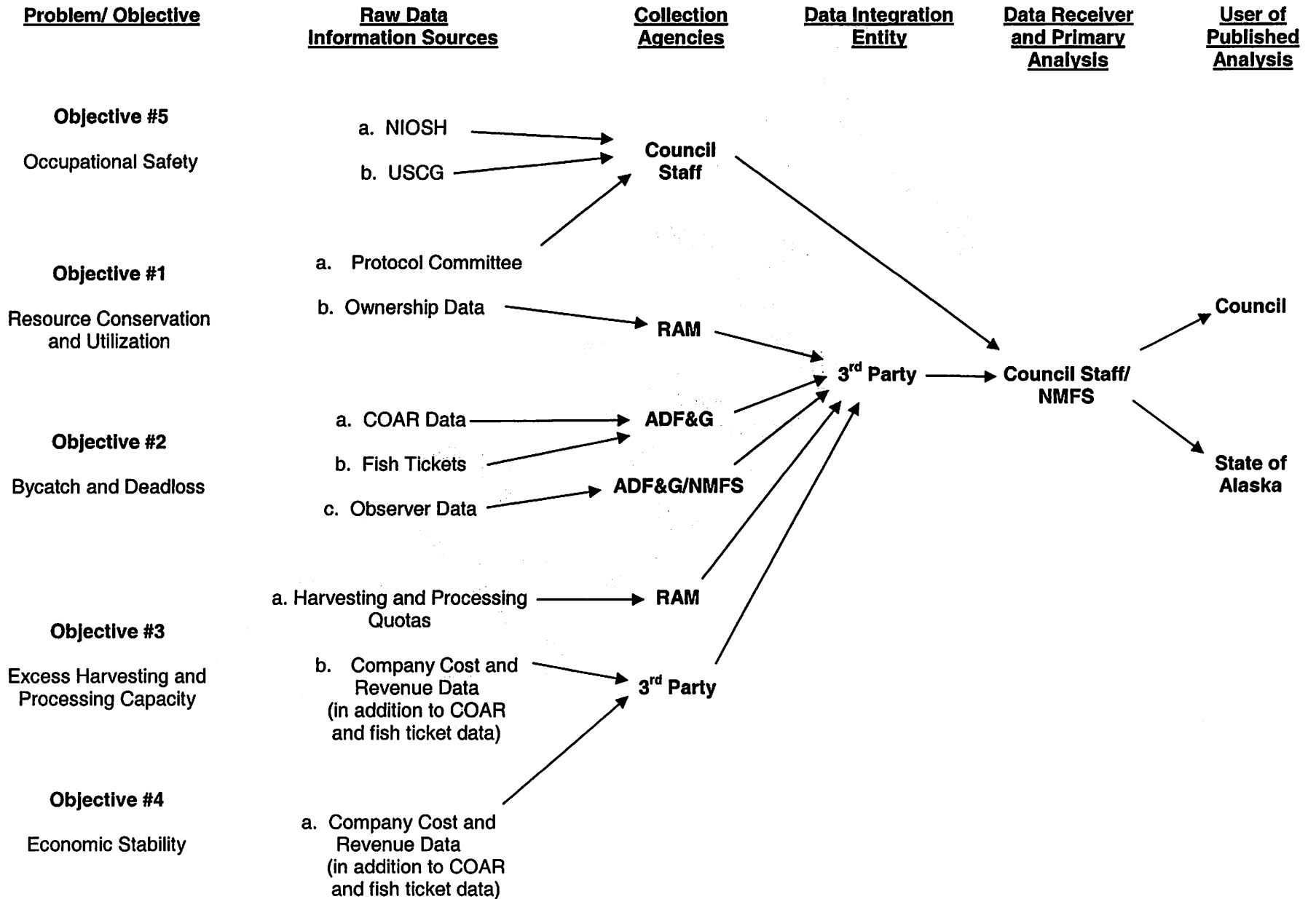
Confidentiality of data submitted is the area of most serious concern to the Committee and its Members appreciate the Council's emphasis in its Motion on ensuring strict confidentiality. Business confidential and proprietary data is extremely sensitive for competitive reasons and must be protected by a clear statutory and regulatory mandate. The Committee notes that the future existence of strong confidentiality protection should not be a rationale for requiring extensive proprietary data submission. The Council should determine what data is required and ensure that all of it is protected.

1. Public Disclosure. For Council analysis presented to the Council and the public, the current ADF&G requirement of the aggregation of four or more entities should be the

minimum requirement for all economic data. Most believe that the minimum for harvesting vessels should be significantly higher, perhaps thirty. The confidentiality protections should protect against disclosure of economic data under both state and federal FOIA statutes.

2. Aggregated Data. Generally, all economic data should be aggregated before being given to analysts at NMFS, state agencies, or the Council. Analysis on an individual entity basis should be solely at the specific direction of the Council requesting that review for stated purpose.
3. Third Party Role. Most Committee members believe that proprietary economic data should be submitted to an independent, third party (e.g. the Pacific States Marine Fisheries Commission) that would provide the data to NMFS, state agencies, and the Council on a blind basis. The Committee believes that analysis does not require connection to specific entities and that use of a third party could provide another layer of protection from public disclosure.
4. Cost of Data Production. Committee Members are concerned about the burden and cost of the data collection program and recommend that all costs (including the costs of a third party collection agency) be covered from the specific fees currently authorized in the MSA.
5. Access Limitation. NMFS, state agencies and the Council should each develop an internal protocol requiring that a senior manager (perhaps NMFS AFSC Director, Council Executive Director, ADF&G Deputy Commissioner, etc.) designate individuals that may have access to the data.
6. Individual Responsibility. Each individual that may have access to the data should sign an individual confidentiality agreement containing penalties for breach of the requirements.
7. Agency Sharing. Regulations should be developed by NMFS for implementation of the confidentiality requirements of the crab economic data program with application to NMFS and the Council. Sharing of data with a state agency should require negotiation of an MOU containing the same specific requirements for state employees as those for federal employees (the current NMFS-ADF&G MOU requires review and revision). The committee concurs with the recommendation of NOAA GC that the current MOU is out of date. A review will take some time, and should be undertaken now to arrive at an MOU that will be implemented with the new data program required under the crab rationalization plan.

Example of Crab Rationalization Data Flow



David Hillstrand
Box 1500
Homer, Alaska 99603

RECEIVED

SEP 18 2002

Chairman
Mr. David Benton

N.P.F.M.C.

Thank you for the opportunity for being on the Captain Quota share committee.

I have been a crewmember since 1979 for the crab fisheries in the Bering Sea. I have captained our vessel for Hair crab for three years until it closed, and captain our vessel for Salmon tendering. I now currently run the Debra D as of Oct 2001. There have been a number of captains who have left the fishery on the vessel which do not qualify either.

Unfortunately the Committee pursued qualifying criteria that eliminate me from qualifying for any quota shares associated with the vessel I currently fish. I know the NPFMC does not want to awarded shares to those who have left the fishery either.

The Captain quota share committee's thoughts were to eliminate anyone with out historic participation. It is unfortunate after they were given consideration for an allocation that they did not try to help out individuals as myself who have been crewmembers all of these years. Captain positions are hard to acquire, and one has to wait for a position to open to have the opportunity to captain a vessel

Please consider the following option along with the captains who have died from fishing related options.

Eligibility:

1. For crewmembers who have recently acquired a captains position.
 - a. BBRKC 2001 permit holder
 - b. Opilio 2002 permit holder
 - c. For captains who have died from fishing related incidents, recency requirements are waived.

Distribution: Based on 3% of the vessels catch to determine percentage of CQS allocation.

- a. All of the shares shall be based on the vessels catch history.
- b. For captains who have died shares based on vessel catch history. Vessels that are currently fishing with a captain the shares shall be divided at 50% to each individual.

Please consider this sub option for CQS it will keep us as captains in a good working relationship with the vessel owner and ensure our future position of employment. The other option that may work would be a point system which the committee does not support in full.

I write as a minority voice of the Captain Quota share committee.

Thank you Mr. Chairman

David Hillstand

A handwritten signature in black ink that reads "David Hillstand". The signature is written in a cursive style with a large, stylized "D" and "H".

**BSAI Crab Rationalization Program
Trailing Amendments**

Data Collection Program

October 2002

Prepared by Staff at
North Pacific Fishery Management Council
605 W 4th Street Ste 306
Anchorage, AK 99501

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3.17 Data Collection Program

In June 2001, the Council expressed its interest in receiving input regarding ways to objectively measure the success of the crab rationalization program and asked the Scientific and Statistical Committee (SSC) to identify objective measures. In October, the SSC presented a tentative list of such measures, identified the types of data that would need to be collected to construct those measures, stated the need to have mandatory reporting requirements, and briefly addressed the current data collection programs.

In February 2002, the SSC restated the need for mandatory data reporting as follows:

A critical part of the Council's ability to understand the social and economic consequences of implementation of rationalization measures is mandatory reporting of socioeconomic data. For example, harvest and production costs, expenditure patterns, vessel ownership data including identifiers (name and address files), employment, and earnings data are absolutely necessary to determine the magnitude and distribution of net benefits that arise from the granting of an entitlement to a public resource. If these data had been required as a component of the plan amendments authorizing IFQs in the halibut/sablefish fisheries and co-ops in the pollock fishery, analysts would be in a much better position to identify the likely economic consequences of the rationalization alternatives currently under consideration for the crab fishery. The SSC recommends that provision of the data listed above be made mandatory. This action is necessary to fulfill the Council's stated desire to have the economic performance of the rationalized crab fishery evaluated.

A draft report that included a detailed discussion of the need for mandatory data collection was prepared by the Inter-Agency Economic Data Collection Workgroup and presented to the Council in February. This draft report appears as section 1 in Appendix 3-7. In March, a discussion paper based on the information and recommendations provided by the SSC was prepared for the Council. The purpose of the paper was to identify objective measures that can be used to monitor the success of the crab rationalization program, identify the data required to support those objective measures, and briefly discuss several issues associated with implementing mandatory reporting requirements. In August, the discussion paper was revised in order to provide more specific detail on the objective measures and the data needed to use them. This revised discussion paper appears as section 2 in Appendix 3-7. Section 3 of Appendix 3-7 contains the portion of the initial March discussion paper (which is not included in the revised paper) that addresses issues associated with implementing mandatory reporting requirements.

The types of measures addressed in the revised discussion paper are intended to allow the Council to monitor the success of the crab rationalization program in terms of addressing the five problems currently facing the fishery. Those problems are identified in the BSAI crab rationalization problem statement as amended by the Council in June 2002. Those five problems and the summary of the problems facing the Council are as follows:

Problems facing the fishery include:

- i. Resource conservation, utilization and management problems;
- ii. Bycatch and its associated mortalities, and potential landing deadloss;
- iii. Excess harvesting and processing capacity, as well as low economic returns;

- iv. Lack of economic stability for harvesters, processors and coastal communities; and
- v. High levels of occupational loss of life and injury.

The problem facing the Council, in the continuing process of comprehensive rationalization, is to develop a management program which slows the race for fish, reduces bycatch and its associated mortalities, provides for conservation to increase the efficacy of crab rebuilding strategies, addresses the social and economic concerns of communities, maintains healthy harvesting and processing sectors and promotes efficiency and safety in the harvesting sector. Any such system should seek to achieve equity between the harvesting and processing sectors, including healthy, stable and competitive markets.

Between the April and June 2002 Council meetings, informal discussions were held with members of the agencies involved in crab management and the fishing industry regarding the collection of economic data. While these initial meetings did not define a complete program to collect economic data for the BSAI crab fisheries, they did provide insights into the types of data that would be required and some of the concerns members of industry have with providing the data¹.

The following Council motion made in June 2002 is a response to the SSC's recommendation, the information in the draft report and discussion paper, and comments from the fishing industry and other participants in the Council process.

14. The North Pacific Fishery Management Council and the National Marine Fisheries Service shall have the authority to implement a mandatory data collection program of cost, revenue, ownership and employment data upon members of the BSAI crab fishing industry harvesting or processing fish under the Council's authority. Data collected under this authority will be maintained in a confidential manner and may not be released to any party other than staffs of federal and state agencies directly involved in the management of the fisheries under the Council's authority and their contractors.

A mandatory data collection program shall be developed and implemented as part of the crab rationalization program and continued through the life of the program. Cost, revenue, ownership and employment data will be collected on a periodic basis (based on scientific requirements) to provide the information necessary to study the impacts of the crab rationalization program as well as collecting data that could be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities. This data collection effort is also required to fulfill the Council problem statement requiring a crab rationalization program that would achieve "equity between the harvesting and processing sectors" and to monitor the "...economic stability for harvesters, processors and coastal communities". Both statutory and regulatory language shall be developed to ensure the confidentiality of these data.

Any mandatory data collection program shall include: A comprehensive discussion of the enforcement of such a program, including enforcement actions that would be taken if inaccuracies in the data are found. The intent of this action would be to ensure that accurate data are collected without being overly burdensome on industry for unintended errors.

¹These issues were discussed further in workgroup meetings over the next few months and are discussed in more detail in section 4 of Appendix 3-7.

3.17.1 Data Collection Developments Since the June Council Meeting

Following the April Council meeting, the Council appointed a workgroup comprising members of the crab harvesting and processing sectors to develop a proposal for collecting economic data. Since June, that workgroup has met four times with agency staff present and at least three times on their own. The workgroup has focused on what data should be collected, how it should be collected, the rules regarding access the data, and how the data will be used after it is collected. Minutes from each of the meetings where agency staff was present are attached as Section 5 of Appendix 3-7.

The purpose of forming the crab data collection committee was to bring together representatives from industry and the state and federal agencies to develop the structure of a mandatory data collection program. Given that existing data collection mechanisms compile very limited economic data, an expanded data collection program will provide the additional data required to analyze the effects of any crab rationalization program that is implemented. The benefit of a collaborative approach between industry and agency staff is that it allows the committee to exploit the specific areas of expertise possessed by both groups.

The analysts are well aware of the measures that are best suited to address the questions posed by the Council and the data required to support such measures. The industry is best informed about the way in which records are typically kept, the frequency with which they are recorded, the difficulty involved in providing these records, and the likelihood of inaccuracies and reporting errors associated with certain types of information. Input by both parties is essential to developing a successful data collection program. For example, the data that economists perceive as the most desirable for constructing accurate and robust measures may be too burdensome for industry to provide. Similarly, the data that industry finds most convenient to provide may not allow the analysts to address the questions posed by the Council, or do so with a sufficient degree of confidence. Therefore, a mutual concerted effort should result in an ability to construct the most sound and informative measures at the least cost and inconvenience to fishery participants.

Before the initial committee meeting, representatives from the state and federal agencies met to discuss the Council's problem statement, objective measures to assess the effects of rationalization on those problems, and the data required to construct the measures. In drafting the specific data elements that would be needed, the agency participants began by first examining two "worksheets" developed by crab processing and harvesting industry members, respectively. These forms were thought to reflect the data that industry would prefer to have collected.² Because the data offered in the worksheets was significantly less detailed than that which would be necessary to address many of the Council's questions, state and federal analysts expanded the industry surveys to facilitate construction of the objective measures. The level of detail requested in the initial agency draft surveys would allow analysts to 1) summarize any changes in revenues and costs that occurred after rationalization; 2) explain the sources and causes of changes in revenues and costs, and separate the effects of rationalization from other sources (such as market or stock effects); and 3) predict how changes in regulations or market factors may affect the revenues, costs, and harvesting/processing decisions of industry participants.

² The processor worksheet was part of a document prepared by Moss-Adams for the Council. The harvesting vessel worksheet was of a similar format, though less detailed.

This initial agency draft survey was presented to industry representatives at the first joint meeting (July 25) of the crab data collection workgroup and agency staff³. Agency representatives asked for feedback regarding data requests that were 1) too burdensome; 2) asked for at a frequency that differed from the way in which records are typically kept; 3) phrased unclearly; or 4) based upon costs that would be difficult to allocate solely to BSAI crab operations, or to the particular vessel or plant. Issues were identified by industry in all four categories, and all suggestions were noted and incorporated into the surveys. A discussion paper was also distributed at the meeting. The focus of the paper was the objective measures that would likely need to be constructed to address the Council's stated issues of concern and the basic data requirements for doing so. An additional aim of the paper was to explain why the data elements included in the initial draft survey were being requested.

At the next meeting (August 7) the revised agency draft surveys were presented and discussed, and additional industry feedback was requested. Industry provided verbal suggestions on ways to improve the surveys and gave handouts detailing how their records are often kept.⁴ Industry also requested more detail regarding how each requested data element would be used, and the specific measure that would be constructed. In preparation for the following meeting, all specific suggestions from the last meeting were incorporated, the changes were noted, and an additional discussion paper was prepared. The goal of this paper was to present each objective measure that could be constructed to address the Council's problem statement (and their five issues of greatest concern), and the specific data required for each. An appendix that attempted to explain the role of statistical inference, biases and problems that arise when aggregating over vessels or plants, and the need for a sufficient number of observations in economic models, was also included.

This document and the newly revised agency draft surveys were discussed in detail at the following meeting (August 20). All specific industry suggestions regarding the surveys were itemized for inclusion in the revised surveys. The remaining industry concerns that were voiced in the meeting essentially revolved around four questions regarding costs that would be difficult to allocate or prorate to a single vessel or plant. In addition, harvesting vessel representatives posed an objection to requests for trip-level detail on landings, crew payments, pot losses, and average soak time. On this issue the agency staff requested additional time to consider the effects of dropping the items, and later agreed to do so. At the end of this meeting, it was suggested that industry get together in the absence of agency in order to discuss their specific concerns and desires regarding the data collection program.

After the first industry-only meeting, the workgroup and agency representatives gathered (September 5) to discuss the results of the meeting. Industry representatives distributed documents that outlined each industry group's⁵ position and proposal for the specific data that should be collected. Agency economists read through the documents and informed industry of the types of potential Council questions that could and could not be answered with that level of detail. The industry proposals varied in the level of detail they were

³See Section 6 of Appendix 3-7 for the most recent versions of those surveys.

⁴ Suggestions were also received via e-mail after the meeting. These suggestions were incorporated into the current draft surveys.

⁵Three proposals were submitted at that meeting. One came from the processor sector. Two other proposals were provided by members of the catcher vessel sector. The catcher/processor sector provided oral comments on their position at the meeting, and those ideas are reflected in the minutes from that meeting. The three written comments are appended to the minutes.

willing to provide, but were generally much less detailed than the draft agency surveys that had been constructed and updated throughout the course of the data collection committee meetings.⁶

Specifically, as of the writing of this document, members of industry had in general agreed to provide additional information on employment, revenue, and ownership⁷. That information can be used by analysts to provide information for some of the Council's areas of interest. The information on costs that industry proposed to provide was similar to the information they made available for the June 2002 analysis. Cost data at that level of detail can be used to monitor the quasi-rents⁸ generated in BSAI crab fisheries only, but does not allow one to discern whether cost changes are due to changes in input use (due to, say, increased efficiency/productivity) or changes in input prices. Therefore, additional information on the input quantities used (or their prices) is necessary. Furthermore, the data proposed by industry does not provide analysts with the information necessary to estimate profits or conduct community impact analyses.

In sum, the level of detail proposed by the industry allows analysts to calculate a portion of the objective measures identified in sections 2 and 3 of Appendix 3-7, and to compare the measures in the pre- and post-rationalization periods. However, analysts will generally be unable to determine which changes were principally the result of the crab rationalization program, or to predict the changes that would occur over time. Thus, accurately predicting the long-term effects of program or the likely effects of changes in the program design will not be possible.

A great deal of thought and input from industry (and agency personnel) has gone into the draft surveys that were modified and updated over the course of the crab data collection meetings. The data elicited in these surveys avoids many of the analytical shortcomings described above (and in the following section) and facilitate computation of the relevant objective measures. Given the agencies' continued willingness to accommodate the requests of industry in developing the surveys, there is no reason to believe that these instruments cannot be further tailored to jointly satisfy the desires of the Council and the concerns of industry.

Potential Uses of the Industry's Proposed Data Elements

This section discusses the economic questions that are likely to be of interest to the Council and the analysts' ability to answer those questions given the industry's September 5th data collection proposal⁹. The general areas of interest that have been expressed to date include: (1) excess harvesting and processing capacity, (2)

⁶ One group of harvesters suggested that they provide only ownership data in addition to the information that is currently collected. Another harvester group (the ACC) proposed providing some variable cost and revenue information, direct employment cost and labor identifiers, and ownership data (for their crab operations only). The processor representatives made a similar proposal, but also offered to supply the quantities of variable inputs used in addition to the total cost of each.

⁷ See the position papers attached to the September 5 minutes of the workgroup.

⁸ Assuming that all variable costs are captured in the survey. The current industry proposal omits costs that certainly vary annually and may also vary with levels of production (such as maintenance and repair costs or improvements in the plant/vessel and its equipment).

⁹ The potential use of the agencies' proposed data elements would be to construct the objective measures outlined in the table below. Efforts have been made to eliminate requests for any other potentially superfluous information.

low economic returns, (3) lack of economic stability, and (4) high levels of occupational loss of life and injury. As will be shown in more detail below (see the table), some questions can be addressed adequately and some cannot.

Questions that could be answered (in an accounting sense) with the data currently proposed by industry are those regarding the number of employees in the crab fishery, the cost of employing those individuals, changes in ownership patterns and structure, changes in vertical integration, quasi-rents (with caveats) earned solely in the BSAI crab portion of a firm's business, and the value of QS transfers. The ability to quantify changes in these areas would represent an improvement over our current state of knowledge. Note, however, that without more detailed cost information analysts will be unable to identify whether any changes occurred primarily due to rationalization.

Questions that cannot be answered are those related to profitability, net benefits to the nation, community impacts, efficiency, and productivity (although the latter two can be computed for processors only, given their September 5th proposal). Specifically, without information on all input costs and revenues a firm's profitability cannot be estimated. Therefore, the profitability of the industry, sectors within the industry, or firms within each sector, cannot be estimated based on the current industry proposal. If all variable costs are provided, quasi-rents could be estimated, but just for the BSAI crab operations of a firm. Technical efficiency and productivity of firms within the industry cannot be estimated without measures of the inputs used in the production of crab. Cost efficiency of firms cannot be estimated without measures of the inputs used in production and their cost. Community impact analysis cannot be undertaken without information on the location, price, and quantity of input purchases. Finally, with the data that industry has proposed to provide, it will be difficult to provide net benefit estimates to the Council for use in RIRs.

The Council will need to determine if this information on economic impacts is adequate for both the periodic reports it has requested in order to evaluate the success of the crab rationalization program, and for the analysis of the potential changes to the program. Information on biological impacts will necessarily come from other data sources and will be developed as needed.

The following table shows issues that the Council may wish to see addressed in their reports, the information that is likely to be available (given the September 5th industry proposals and existing databases), and how well that information can address the issues. The measures to be estimated were taken from, and discussed further in, section 2 of Appendix 3-7.

Measures	Data	Confidence in Estimate
<i>Issue: Excess Harvesting and Processing Capacity and Low Economic Returns</i>		
Harvesting capacity and capacity utilization (CU)	Harvest levels per vessel, time spent fishing, number of active vessels, some variable input costs	Fishery participation and activity can be monitored, but standard CU measures cannot be adequately constructed.

Measures	Data	Confidence in Estimate
Processing capacity and capacity utilization	Processing levels per plant, time spent processing, number of active plants, some variable input costs and quantities	Processing activity can be monitored, and <i>technical</i> capacity and CU measures can be constructed with some caveats ¹⁰
Harvesting sector profit for BSAI crab only (total revenue - total cost)	A firm's revenue and some variable input costs from the BSAI crab fishery only	Cannot be estimated because some variable costs and all fixed costs would not be provided
Harvesting sector quasi rent for BSAI crab only (total revenue - total variable cost)	A firm's revenue and some variable input costs from the BSAI crab fishery only	Estimates for the BSAI crab portion of a firm's operation could be provided with some caveats
Processing sector profit for BSAI crab only	A firm's revenue and some variable input costs (and quantities) from BSAI crab processing only	Cannot be estimated because some variable costs and all fixed costs would not be provided.
Processing sector quasi rent for BSAI crab only	A firm's revenue and some variable input costs (and quantities) from BSAI crab processing only	Estimates for the BSAI crab portion of a firm's operation could be provided with some caveats
Harvesting sector productivity and efficiency	Catch levels, fishing weeks, pot lifts, some variable input cost data	No reliable estimates of productivity, technical efficiency, or allocative cost efficiency can be developed without measures of input use to accompany input cost data
Processing sector productivity and efficiency	Production levels, crab purchases, weeks processing crab, some variable input cost and quantity data	Estimates of productivity, technical efficiency, and allocative cost efficiency can be developed with caveats; data on capital expenditures/value are required for good estimates

¹⁰A distinction is drawn here between *technical* and *economic* capacity (and CU) estimates. As discussed in section 2 of Appendix 3-7, economic capacity estimates reflect the extent to which costs are minimized through utilization of capacity, and thus provide a richer interpretation. Technical capacity (and CU) estimates indicate the extent to which a firm is producing near their maximum physical output level, regardless of cost.

Measures	Data	Confidence in Estimate
Management costs	Will not rely on data collected from industry	Good estimates can be provided by agencies.
<i>Issue: Lack of Economic Stability for Harvesters, Processors and Coastal Communities</i>		
Distribution of catch and ex-vessel revenue by vessel class (e.g., length class and type), port of landing, and residence	Revenue, fishtickets, ownership, and employment data	Good estimates can be made with the data sources listed
Distribution of processed product revenue by community and processor or processor category (size, ownership, location)	Revenue, fishtickets/RAM landings, ownership, and employment data	Good estimates can be made with the data sources listed
Distribution of profits and quasi rents within and between the harvesting and processing sectors	Revenue, some BSAI crab variable costs, and plant/owner location data	Profits cannot be estimated. Quasi rents in BSAI crab (with caveats) could be assigned to plant/owner locations
Distribution of harvester use rights by vessel class	RAM QS data	Good estimates can be made
Distributions of harvester and processor use rights by processor or processor category	RAM QS data	Good estimates can be made
Seasonality of catch and ex-vessel revenue by vessel class, port of landing, and residence	Fishtickets/RAM landings data, revenue, ownership data	Good estimates can be made
Processor ownership interest in BSAI crab catcher vessels and harvester QS/catch history	Ownership data, RAM QS data	Good estimates can be made
Catcher vessel ownership interest in BSAI crab processors and processing QS/catch history	Ownership data, RAM QS data	Good estimates can be made
Concentration of domestic and foreign ownership in the BSAI crab harvesting and processing sectors	Ownership data/MARAD data	Would need to collect as part of the ownership data or be allowed to access MARAD data.

Measures	Data	Confidence in Estimate
Level and distribution of harvesting and processing sector employment and payments to labor (number of individuals, hours/days worked, and income)	Employment data	Estimates of labor costs (not wages) and the number of individuals employed would be provided. Hours/days worked would be problematic, and labor payments would have to be imputed from total labor costs
Degree of involvement of BSAI crab harvesters and processors in other AK fisheries	RAM QS data, fishtickets, NMFS Blend data, COAR	Good estimates can be made with the listed data sources
Value of use right	RAM Transfer data	Reasonable estimates could be made if RAM tracks the value of transfers
Regional economic impacts (employment and income) of the BSAI crab fisheries	The number of employees annually involved in BSAI crab will be provided by industry, total cost to industry of employing them	Cannot be estimated adequately
<i>Issue: High Levels of Loss of Life and Injury</i>		
Vessel safety	USCG vessel safety statistics and NIOSH data	Reasonable estimates can be made
Number of days at sea by weather risk level	Fishtickets and weather service data	Difficult to estimate because we cannot determine the number of days fished
Pots carried or fished per trip by vessel class	Only pot limit and buoy tag data are available	Could not estimate the number of pot fished - especially under an IFQ system

Some members of industry have expressed concern that the data collection elements proposed by agency economists will be used to study the profits of individual firms, and that the information might be used in the future to redistribute harvest rights. While it may be possible for that to occur¹¹, the questions agency economists are tasked with addressing are rarely concerned with the profits of a single firm. Economic analyses generally focus on “*exploring the ins and outs of how society’s pool of scarce resources (...natural resources, technology, labor, capital goods, managerial talents) can be utilized to produce a stream of goods and services that produce the greatest consumer and societal fulfillment*” (Thompson, 1985).

¹¹The Council may begin an FMP amendment for a fishery when problems are brought to their attention that they feel warrant action on their part.

In producing RIRs for the Council and Secretary of Commerce, analysts are required to estimate the action's impact on net benefits to the Nation, which does not elicit information in individual plants, vessels, or firms. The Council has also asked for periodic reports on the success of the crab rationalization program. The estimates contained in such reports also do not require the release of individual records. Therefore, none of the information gathered as part of this process would be presented in public documents or reports that would identify the profitability of a vessel/processor/firm. All information would be presented in aggregate to preserve the confidentiality of the participants in the fishery.

Potential Additions to Industry's Proposed Data Collection Elements

It is clear from the discussion above that many of the economic problems identified by the Council in their crab rationalization problem statement cannot be addressed with existing data bases, nor with the additional data industry has proposed to be collected.

To address the issue of excess harvesting and processing capacity additional information is needed on the quantities of capital equipment purchased and maintained by plants and vessels, their activity levels in each crab fishery, and variable input use (for items such as labor, fuel, pots, and other essential inputs). Such information will allow for the computation of somewhat crude physical or technical measures of capacity. Further information regarding the prices and total expenditures on variable inputs used in production would facilitate formation of economic measures of capacity, which tend to be richer and more useful than the purely technical measures. In sum, this information would allow analysts to estimate capacity in the BSAI crab fishery, and monitor how capacity changes in response to rationalization.

Determining changes in economic returns in a fishery will require additional data on the costs of production (all variable cost data to address short term profits and fixed costs to address longer term profitability and cash flow issues). Additional information on the quantities of inputs used in production will allow assessment of changes in efficiency or productivity that may drastically affect the returns earned in the fisheries (one of the often touted benefits of rationalization).

Studying changes in the economic stability of the communities dependent on the BSAI crab fisheries requires additional information on the residence of crew and processing workers, the wages they received (which differs from the cost to industry of employing labor – the information offered in industry proposals), and the location of purchases and vessel maintenance.

Finally, high levels of occupational loss of life was listed as a concern. Currently data are collected on the number of deaths that occur in the BSAI crab fishery each year. From those data it is widely recognized that the BSAI crab fishery is one of (if not the most) dangerous occupations in the U.S. However, additional information on the number of participants (which was offered by industry in the September 5th proposal) and total effort (in weeks) of these participants would allow the number of deaths to be stated in proportional terms (say, as a percent of the number of crew members or as a percent of the number of pots pulled). Stating the data in those terms would allow for more direct comparisons of safety across years.

The importance of obtaining more complete economic data in order to analyze the economic impacts of the crab rationalization program in the future needs to be emphasized. Without the types of information discussed above, the impacts of the crab rationalization program may never be understood. Therefore it is important to begin the data collection program as soon as possible if the Council wishes to obtain information on the fishery before rationalization takes place. If data could be collected going back to 1997 (at a

minimum), it would provide the analysts information on the fishery before the BS C. opilio GHJs dropped to their current levels. That would provide pre-rationalization information on the fishery when GHJs were fairly high and when they were low. Continuing the data collection program into the future would provide the necessary economic information on the crab fisheries during the post-rationalization time period to make comparisons between the two time periods.

References:

Thompson, Arthur A., *Economics of the Firm Theory and Practice*. (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1985) p.1.

Appendix 3-7 - Section 1

Inter-Agency Economic Data Collection Workgroup Draft Report

The following draft report, prepared by the Inter-Agency Economic Data Collection Workgroup, includes a detailed discussion of the need for mandatory data collection programs:

DRAFT FOR AGENCY REVIEW (February, 2002)

A Proposal to Develop an Inter-Agency Economic Data Collection Protocol And Data Sharing Agreement for FMP Fisheries in Alaska and Other Fisheries for Which the North Pacific Fishery Management Council Makes Recommendations to the U.S. Secretary of Commerce (SOC)

1. Summary

Economists from four State and Federal agencies have met to discuss methods of collecting economic data that are necessary for the preparation of FMP amendments but are currently not available. After review of past experiences and agency problems associated with voluntary data collection, participants in the meeting have concluded that it is necessary to develop a mandatory data collection program. Participants in the meeting also felt that it was necessary to ensure that the data collected under such a program would be available only to authorized staff from each of the represented agencies.

Economists from these agencies are charged with conducting net benefit and distributional analyses. A mandatory data collection system is believed to be the best way to meet these objectives. Voluntary data collection programs, with rare exceptions, are not timely, have low response rates, do not result in adequate time series, and can be subject to strategic bias. Moreover, several recent attempts by NMFS, ADF&G and the Council to collect economic data have not been successful despite multiyear efforts and working very closely with industry members.

Many important issues, including property rights, closed areas, Improved Retention/Improved Utilization, and endangered species, have been brought to the forefront recently, but economists do not have adequate data to conduct complete and thorough analyses of these issues. New emphases on regulatory completeness, such as was the case in the shark FMP amendment, have also highlighted the need for better economic data.

Economists attending the meeting believe that successful economic data collection will require the State and Federal agencies to continue to work together on the program. To facilitate development of the proposed economic data collection program the economists also concluded that the agencies should provide the staff time and resources necessary to develop a draft document that would outline some alternatives for a mandatory data collection program.

2. Background Information

Economists from four State and Federal management agencies are currently involved in developing a proposal for an inter-agency agreement to collect economic data for Alaskan fisheries. Combined, those agencies¹ have the responsibility of managing both the commercial and recreational fisheries off the coast of Alaska. The agencies involved in developing the proposal are the:

- Alaska Department of Fish and Game (ADF&G) represented by Jeff Hartman;

¹Dave Colpo, Pacific States Marine Fishery Commission (PSMFC) economist, also attended the meeting in an advisory capacity. The Commission has no opinion on voluntary versus mandatory data collection mechanisms for economic data.

- Commercial Fisheries Entry Commission (CFEC) represented by Kurt Schelle;
- National Marine Fisheries Service (NMFS) represented by Todd Lee;
- North Pacific Fishery Management Council (NPFMC) represented by Darrell Brannan.

The economists held a meeting during September 2001 to discuss the current status of economic data collection and the future outlook. The economists from each agency unanimously agreed that a mandatory data collection program should be explored and that inter-agency coordination is needed. The need for mandatory economic data collection is evident since several attempts to collect these data under voluntary programs have only had very limited success. It is important that a mandatory data collection program has the support of each of the management agencies involved in overseeing FMP fisheries and other fisheries for which the NPFMC makes recommendations to the SOC. Cooperation will ensure that the necessary data are collected while minimizing the burden on industry members. Cooperation will also help to ensure that once the data are collected they will be available only to the analysts within each agency.

The present need for economic data is quite high. Currently there are many important policy issues that affect commercial fisheries in Alaska. These include property rights, closed areas, Improved Retention/Improved Utilization, and endangered species. These policy issues may lead to economic and structural change in the fishing industry and result in distributional effects that rival or exceed those associated with the initial americanization of North Pacific fisheries. Economic analyses are also coming under increased scrutiny to ensure that agencies are living up to their statutory requirements. New emphases on regulatory completeness, such as was the case in the Atlantic shark FMP amendment, have continued to highlight the need for better economic information.

In light of the increased scrutiny and threat of litigation, there has been a national and regional commitment by NMFS to supply more resources to improve the collection and analysis of economic data. If these regulatory requirements are to be addressed, the economists participating in this meeting are not aware of any viable alternatives to mandatory economic data collection for the FMP fisheries of the North Pacific. Thus, we recommend that the participating agencies work toward a unified data collection system. The data to be collected would include cost, employment and earnings data at the vessel or plant level.

3. Voluntary Economic Data Collection

Over the past several years, as the stakes have increased in fisheries management decisions, it has become more and more difficult to collect economic data on a voluntary basis, and the most recent attempts were met with very limited success. Today there are no economic cost data being collected for the commercial fleets on a voluntary basis that can be used for FMP and regulatory amendments for fisheries that the NPFMC makes recommendations to the SOC.

The most recent attempt at voluntary economic data collection was a program developed by NMFS. That economic survey focused on the pollock harvesting and processing sectors participating in the Bering Sea and Aleutian Island groundfish fisheries. After approximately two and a half years of working with industry members to develop the data collection surveys, only one firm completed a survey and that was ultimately returned to the company when no other industry members responded. This effort included the development of a data verification process as requested by the industry.

ADF&G has recently attempted to collect ownership information from pollock catcher vessel owners. This information is essential to defining each firm as an entity for economic analysis. Catcher vessel response rates to the survey was initially very low and there has been continuing resistance to requests for reporting this basic data. These data were ultimately collected after a strong request was made by both the ADF&G and the NPFMC.

In another independent effort, the Council's economic data committee was unable to secure a commitment from industry participants to collect individual firm level cost data from the EEZ pollock

groundfish fisheries after several meetings from 1998 through 2000. That committee has recently been disbanded by the Council for lack of progress towards meeting its objectives. Given the reluctance of industry members to supply these data, economists from each of the agencies have concluded that it is unlikely that any voluntary program will result in a systematic and periodic data collection program that would provide analysts with a useful time series of disaggregated economic data. Therefore, the focus should shift to studying how the data can be collected through a mandatory program.

4. Existing Mandatory Data Collection

Currently, revenue and price data are the only economic data being systematically collected under mandatory programs. Two examples of these are ADF&G's fish ticket records, which contain a value field, and ADF&G's Commercial Operator's Annual Reports (COAR) which contain data on both ex-vessel and wholesale values.

The data from these reporting systems are extremely useful for a variety of purposes, but neither fish tickets nor COAR reports collect the additional data on costs or employment that are needed to carry out requisite economic net benefit and economic impact analyses. A systematic approach to collecting cost, employment, and earnings data at the vessel or plant level is needed.

In recent years, some efforts have been made to indirectly estimate marginal costs from fish ticket data based upon the participant's in-season fishing decisions. While similar approaches to estimate in-season marginal costs deserve continued exploration, the methodologies require many simplifying and ad hoc assumptions. The regular and systematic collection of detailed cost and employment data from participating entities would directly provide a reliable database that could be used for the analyses of many proposals.

5. Problem Statement

A successful economic data collection program has all of the following characteristics:

- The data are available in a timely fashion
- Sufficient cross sectional and time series data coverage at the operating unit level to allow for statistical analyses
- Sufficient in scope to carry out standard economic analyses (i.e., net benefit)
- Minimal biases (i.e., non-response bias and strategic bias)
- High degree of confidence in the accuracy of the data

If data satisfying the above characteristics were available, it would substantially improve the ability of economists to develop models and provide useful information to the public, fishing industry, policy makers, and fishery managers.

The economic data necessary to study the impacts of regulatory changes are currently not available. Analysts are being tasked with analyzing complex FMP and regulatory amendment packages without being provided the economic data necessary to conduct formal economic analyses. These analyses are considered to be inadequate by many reviewers of the documents, since most must fall back on gross revenue calculations, which provide no insights to profitability or net benefits to the nation. Recent legal actions leave the agencies vulnerable to regulatory challenge (i.e., Atlantic Shark Amendment). Because the analysts lack the data required to conduct formal cost-benefit or distributional analyses, policy makers that rely on their work are often required to base their decisions on incomplete economic analyses. Furthermore, the number of policies requiring these types of analyses are increasing.

6. Goals

The goal of the proposed project is to develop a mandatory data collection program for vessel or plant level data that is verified to the extent practicable. The program will be designed to protect confidential data, coordinate the collection of data, minimize the burden on industry, and be administratively efficient. Improving the quality and scope of the economic data that are being collected will require

cooperation from all of the agencies involved, as well as a commitment to supply the resources necessary to make the program successful.

It is the intent of this group that the disaggregated (raw) data be shared among participating agencies in accordance with Federal and State laws². Each agency would then be responsible for ensuring that the confidentiality of the data is protected.

7. Tasks

To facilitate the collection of economic data it is necessary to develop a data collection protocol that all of the agencies would agree to follow. The protocol would establish the following:

- Which agency would collect specific data
- Who would be responsible for oversight of the data collection and ensuring its confidentiality
- How the data would be shared between agencies,
- Ensure adequate data sharing agreements that allow the exchange of disaggregated economic data among the appropriate staff members within the participating agencies, and
- The funding sources for the data collection projects.

Defining the basic structure of the data collection process before setting out to collect the data should ensure that the proper data are collected, they are properly stored and maintained, and that they can be used in the most effective manner.

A larger group of economists from the agencies met in July 2001 to develop a list of needs for economic research. That list represents the areas we feel need to be improved. Some of the areas of need that relate to this effort are:

2P _t	Markets
1/2P _t	Industrial organization
1/4P _t	Regional and community economic impacts
øP _t	Prediction of behavior
2P _t	Economic performance
0P _t	Rights based management

It is critical that the process to develop these protocols begins within a relatively short period of time. Currently several fisheries under the authority of the NPFMC, NMFS, and ADF&G are moving towards systems of more rational management. The management system changes being discussed for these fisheries will alter the economics of the industries and communities that rely on them. Without collecting information on the fisheries before these changes take place, economists and policy makers will not be in a position to determine the overall impacts of the programs. Therefore, without an adequate data collection mechanism, the successes, failures, and ability of those programs to meet their objectives may never be truly understood.

8. The Next Steps

If each of the agencies agrees to provide staff support for development of this project, the next two steps towards implementing a mandatory data collection program will be (1) developing a draft Inter-agency proposal fleshing out the mandatory data collection mechanisms and (2) presentation of the proposal to each agency for modification and approval of the concepts.

Should each of the agencies agree to the proposal then efforts will focus on developing the implementation details of the program and the collection of data. These steps will require additional support from a broad group of people with specialized knowledge in the agencies (lawyers, policy experts, and database designers and administrators).

² It is also the intent of the committee that if current laws prohibit/inhibit the sharing of disaggregated economic data among the appropriate analytical staffs of the agencies participating in this effort, that those laws be modified to allow the sharing of disaggregated economic data.

Objective Measures, Models, and Necessary Data

Discussion Paper

Prepared for the Crab Data Group

August 19, 2002

National Marine Fisheries Service
Alaska Fisheries Science Center
Seattle, Washington

This discussion paper is based upon the objective measures previously identified by the SSC to monitor the success of the crab rationalization program. It identifies the method or models typically used to construct such measures and the data required to adequately construct them.

The measures identified by the SSC are intended to allow the Council to monitor the success of the crab rationalization program in terms of addressing the five problems currently facing the fishery (as identified in the BSAI crab rationalization problem statement prepared by the Council in June 2002). Those five problems and the summary of the problems facing the Council are as follows:

1. Resource conservation, utilization and management problems;
2. Bycatch and its associated mortalities, and potential landing deadloss;
3. Excess harvesting and processing capacity, as well as low economic returns;
4. Lack of economic stability for harvesters, processors and coastal communities; and
5. High levels of occupational loss of life and injury.

"The problem facing the Council, in the continuing process of comprehensive rationalization, is to develop a management program which slows the race for fish, reduces bycatch and its associated mortalities, provides for conservation to increase the efficacy of crab rebuilding strategies, addresses the social and economic concerns of communities, maintains healthy harvesting and processing sectors and promotes efficiency and safety in the harvesting sector. Any such system should seek to achieve equity between the harvesting and processing sectors, including healthy, stable and competitive markets."

The Objective Measures

This paper discusses the economic objective measures that will likely need to be computed, and the corresponding economic data that is needed (some of which must be elicited through the surveys). For a majority of the measures elaborated on below, the required data is discussed in the context of the vessel or plant (and at times, the firm), depending on the measure. Measures that are primarily production based (capacity utilization, productivity, and efficiency) are best constructed with data from the vessel or plant level. Such a focus allows the analyst to more directly identify the link between inputs used to catch or process fish and the quantity of fish or product forms obtained, respectively. Characterizing this link, and how it changes, is a key part in assessing the changes in economic performance that arise under rationalization. However, because the production process of one vessel or plant is at times only one component of the overall business structure, instances arise in which the firm (which may own one or more vessels, plants, or both) is the natural unit of observation.

Therefore, in addition to the individual measures discussed below, ownership data are required to link each piece of the overall puzzle. This data allows one to assimilate the individual effects into the likely "overall" effect of crab rationalization on the residual claimants of the operations we observe on a piece-by-piece basis. It also allows analysts to monitor structural changes not reflected directly in performance- or profit-based measures, such as changes in the concentration of domestic and foreign ownership in the harvesting and processing sectors, the structure of ownership (including proprietorships, publicly traded corporations and privately held corporations), and the relationships both within firms, (i.e., the amount and nature of vertical and horizontal integration) and among firms.

Although vessel-, plant-, or firm-level detail is needed to adequately construct many of the measures discussed below, there are measures for which aggregate (e.g., sector-level) data can likely provide an adequate representation. One underlying problem with using aggregated data for all purposes, however, is that the conditions under which the aggregate data accurately represents the individual firms' production technologies and decisions is quite restrictive. The result is a model with unrealistic assumptions may seriously bias the resulting measures (aggregation issues constitute a large branch of economic theory). Furthermore, if the aggregation is too extreme, the information that can be obtained from a model will not allow the analyst to adequately explain the source or cause of any changes. In other cases, the lack of sufficient number of observations (i.e., data on each vessel, plant, or firm operating in a given time period) may preclude estimation of the model typically used to construct a particular measure. Finally, aggregate data cannot be used to determine whether most fishermen and processors will have benefitted from crab rationalization. For example, aggregate processor profits could increase even though the profits for the majority of the processors decreased. Additional discussion of these issues is provided in the Appendix.

Note that this paper does not provide a discussion of the specific data needed to address problems 1), 2), and 5), as the primary data required is not necessarily "economic" in nature and therefore not requested in the economic data surveys under consideration. However, some of the objective measures discussed for problems 3) and 4), and the data used therein, may be useful in monitoring the success of the crab rationalization program with regard to problems 1), 2), and 5). For example, issues of resource conservation and utilization may be addressed by examining the patterns of spatial and temporal effort and catch given in the trip-level harvesting records. The incidence of ghost fishing mortality can, in part, be inferred by changes in pot losses, which are currently requested on the draft harvesting surveys. Information regarding changes in the likelihood of injury or loss of life may be supplemented by data on the nature of fishing trips that reflects their intensity and duration.

Problems, Measures, and Data

3. Excess Harvesting and Processing Capacity and Low Economic Returns

Measures:

a) Harvesting capacity and capacity utilization

Data Required: Typically, the analysis of capacity and capacity utilization is based upon the cost structure of the vessel, and examines whether the observed level of catch coincides with the least-cost level, given the capital stock. This process requires one to compile information on all significant variable costs (labor, fuel, bait, pots, etc.), including the price of all variable inputs and the quantities used. A measure of the capital stock is also required, and is often expressed as the dollar value of the vessel and equipment onboard, or with proxies such as vessel characteristics [length, tonnage, horsepower, etc.]. One can then model the relationship between output (total catch, by species) and cost. If production is currently less than the level at which total average costs are minimized, given the existing capital stock, capacity is under utilized (the opposite is true if current output exceeds such a level). Further extensions of the model allow one to directly compute the contribution of the capital stock in production and thus, provide an alternative measure of the extent to which capital is being utilized.

Summary: Variable input prices and quantities purchased, capital quantities, and catch quantities (by species) are required.

b) Processing capacity and capacity utilization

Data Required: The same approach and data requirements would apply in assessing processing capacity and capacity utilization (although the specific inputs used and outputs produced are different). It can be more difficult, however, to quantify the capital stock for processors, as is evidenced by conversations with industry.

Summary: Variable input prices and quantities purchased, capital quantities, and production quantities by species and product form are required.

c) Harvesting sector profit (total revenue - total cost)

Data Required: This measure is comprised of total revenues less total cost. If one wants to understand the source of any change in its value at the most basic level, one needs separate measures of total revenues and total costs. However, without details on total catch, the prices and quantities of variable inputs, and fixed costs, one cannot tell if costs changed due to changes in catch levels, effort (variable input) levels, input prices, or fixed costs. Furthermore, without detail on the quantities sold and prices received, for each species, one cannot tell if changes in revenue are attributable to changes in price or total catch. Thus, without the above information, changes in profit cannot be explained and increased production or cost efficiency cannot be discerned from exogenous market impacts. The data components described above can also be used to construct predictive models that assess the likely change in production patterns, revenues, and costs in response to market shocks and/or regulations.

Summary: Variable input prices and quantities purchased, fixed costs, total catch quantities and prices received, by species are required.

d) Harvesting sector quasi rent (total revenue - total variable cost)

Data Required: The comments expressed in c) with respect to profits apply to quasi-rents as well, except fixed costs are not required for the analysis. Such a focus eliminates accounting for fixed costs that cannot be easily allocated to a specific vessel (or solely to crab operations), and must be prorated across several vessels.

Summary: Variable input prices and quantities purchased, total catch quantities and prices received, by species are required.

e) Processing sector profit

Data Required: essentially the same type of information is required as for harvesters, which is discussed in c) above (with the obvious qualification that the respective variable inputs are likely to be different and revenue data should include product form, by species, quantity produced, and price received).

Summary: Variable input prices and quantities purchased (including fish purchases by species), fixed costs, total production, by species and product form, and prices received for each product are required.

f) Processing sector quasi rent

Data Required: The same comments apply to quasi-rents, except fixed costs are not required for the analysis. Such a focus eliminates accounting for fixed costs that cannot be easily allocated to a specific plant (or solely to crab processing), and must be prorated across several plants.

Summary: Variable input prices and quantities purchased (including fish purchases by species), total production, by species and product form, and prices received for each product are required.

Productivity:

Data Required: The measurement of productivity essentially involves the quantity of inputs required to produce a unit of output. The inputs included in the model should consist of those that directly contribute to the quantity of output one can produce. In the simplest terms, a single-input productivity measure such as labor productivity is computed as the ratio of output to labor hours. These measures are quite limited, however, in that they fail to account for the use of other inputs in production. That is, the ratio of total output to labor hours may have increased over time for a particular plant, but this may be due to increased use of automation (so the decreased labor use has been offset by increased capital expenditures). Therefore, *total* factor productivity measures are preferred, which account for the use of, and substitution among, all inputs in production. Because the contribution (and cost) of a one-unit change in each factor of

production can differ widely, each input's share of the total cost of production is needed as a weight when accounting for the changes in input use.

Summary: Direct inputs in production (quantities used and the cost of each), total catch quantities, by species are required.

Efficiency:

Technical Efficiency

Data Required: The measurement of "efficiency" can be undertaken in several ways to identify different notions of efficiency. *Technical* efficiency is similar to productivity in that it relates to the quantity of inputs used to obtain a given bundle of output(s). Essentially, productivity measurement involves computing how the skill with which inputs are converted to outputs progresses (or regresses) over several periods of time, and technical efficiency measurement involves analyzing each firm's relative proficiency in production processes within each period.

Summary: Direct inputs in production and total catch quantities by species are required.

Allocative Efficiency:

Data Required: The measurement of *input-allocative* efficiency pertains to the degree to which one minimizes costs of producing a given level of output by choosing an optimal proportion of inputs, given their relative costs and contributions to production. In more familiar terms, cost savings afforded by eliminating the race for crab are likely to increase input-allocative efficiency. *Output-allocative* efficiency reflects the degree to which one chooses the optimal mix of outputs (here, catch), given the respective market prices and opportunity costs of targeting one species instead of another. Loosely speaking, measures of input (output) allocative efficiency can be thought of as the extent to which one minimizes (maximizes) the cost of (revenue from) a given level of outputs (inputs). Note that one can be input-allocatively efficient and output-allocatively inefficient, or vice-versa. Similarly, one can be technically efficient and allocatively inefficient. The point here is that each measure captures a different aspect of production, and each can be affected in different ways from changing institutional or regulatory environments.

Summary: The quantities of direct inputs in production and their costs, total catch quantities and prices by species are required.

h) Processing sector productivity and efficiency

Data Required: The basic data required to measure productivity and efficiency in the processing sector is the same as in the harvesting sector -- only the definition of direct inputs and outputs changes. See g) I), ii), and iii) for a description of the measures, models, and data.

4. Lack of Economic Stability for Harvesters, Processors and Coastal Communities

The objective measures c), d), e) and f) listed for Problem 3 are well suited to assess the success of the crab rationalization program in increasing economic stability for harvesters and processors. This can be accomplished by examining each vessel or plant's annual profit or quasi-rents, and calculating measures of variation for pre- and post-rationalization periods. The detail afforded in the data used to construct c), d), e) and f) also allows one to account for exogenous market effects (or varying stock levels) that may affect stability. That is, one can ascertain whether economic stability or viability is more likely in the rationalized fishery (relative to pre-rationalization) when market shocks are prevalent. Stability can also be analyzed by designating vessels or plants into groups of interest (based on size, species composition, regional designation, etc.) and presenting the mean values for the group (along with indicators of the variation within that group) for each year. Such an approach will preserve confidentiality, yet allow for the most accurate and informative measures of stability and the distribution of income among and between harvesters and processors. The following section outlines additional measures that can be constructed -- many of which provide information on impacts to coastal communities, which are not adequately addressed in c), d), e), and f) above.

Measures:

- a) Distribution of catch and ex-vessel revenue by vessel class (e.g., length class and type), port of landing, and residence

Data Required: Catch and revenue information, vessel information, and vessel owner information are required.

- b) Distribution of processed product revenue by community and processor or processor category (size, ownership, location)

Data Required: Product revenue information, plant and plant owner information are required.

- c) Distribution of profits and quasi rents within and between the harvesting and processing sectors

Data Required: The measures computed in c), d), e), and f) from Problem 3 above can be aggregated together in various ways to construct measures of profits and quasi-rents within and between the harvesting and processing sectors. Such an approach would allow analysts to explain any observed changes and facilitate predictive modeling.

- d) Distribution of harvester use rights by vessel class:

Data Required: Distribution of use rights by vessel and vessel class information are required.

- e) Distributions of harvester and processor use rights by processor or processor category

Data Required: Distribution of use rights by processor and processor category information are required.

- f) Seasonality of catch and ex-vessel revenue by vessel class, port of landing, and residence
Data Required: Catch, ex-vessel revenue, vessel class, port of landing, ownership, and owner residence data are required.
- g) Processor ownership interest in BSAI crab catcher vessels and harvester QS/catch history
Data Required: Processor, vessel and QS ownership data are required.
- h) Catcher vessel ownership interest in BSAI crab processors and processing QS/catch history
Data Required: Processor, vessel and QS ownership data are required.
- i) Concentration of domestic and foreign ownership in the BSAI crab harvesting and processing sectors
Data Required: Processor and vessel ownership data are required.
- j) Level and distribution of harvesting and processing sector employment and payments to labor (number of individuals, hours/days worked, and income)
Data Required: Harvesting and processing sector employment and payments to labor data are required.
- k) Degree of involvement of BSAI crab harvesters and processors in other AK fisheries
Data Required: Processor and vessel ownership data, as well as, catch, production, and revenue data are required.
- l) Value of use right
Data Required: Information on the prices of buying and leasing QSs is required.
- m) Regional economic impacts (employment and income) of the BSAI crab fisheries
Data Required: Data on expenditures by location and the residence of those involved in harvesting and processing crab, and other regional economic data are required to develop regional economic models.

Appendix: - The Need for (Disaggregated) Observations in Economic Models

Economic theory is concerned with explaining the relationships among economic variables (e.g., inputs in production, outputs, input prices/costs, and output prices) and using that information to explain, evaluate, and/or predict production, allocation, and distribution decisions. This process typically involves specifying a "model" that characterizes the salient aspects of a particular process or decision. The chosen model defines the general relationships to be examined, and within the model, observed choices, outcomes and factors (i.e., data) are used to provide information regarding the relationships of interest.

For example, one may specify a model of producer behavior that examines the effect of input and output prices on input and output decisions. Within this model, one can establish both the sign of certain relationships (i.e., does an increase in the cost of fuel decrease the quantity of fuel demanded?) and the magnitude or sensitivity of these relationships (i.e., what is the percent change in fuel consumption when fuel prices increase by one percent?). These relationships are established by examining the observed reactions of all the producers in the sample to changes in the price of fuel.

To get an accurate and complete characterization of how firms may react to the price changes, one must observe several choices over the quantity of fuel purchased at various prices. These observations increase the amount of "evidence" substantiating the relationship, and show the relationship over a wider range of conditions (e.g., is the reaction to increasing fuel prices larger when fuel prices are low or when they are already higher than their typical levels?). Furthermore, the quality and reliability of the model increases when one observes the same firm or decision making unit in several periods. Such observations help to establish whether observed choices and relationships are stable, and the extent to which they may change in conjunction with other potential shocks. Therefore, it is widely accepted that "more is better" when incorporating data into models -- as long as the quality of the data is not compromised by extracting more detail.

Fortunately (for both those supplying the data and the analyst tasked with compiling it), statistical tests can be used to evaluate the strength or significance of the estimated relationships, and one typically knows the number of observations necessary to construct a particular model. Assuming that all relevant variables are included in the model, there comes a point at which one can reject the conclusion that the estimated relationships are spurious. Just as with the relationships one attempts to characterize in the model, the tests of significance typically become increasingly conclusive as the number of observations increase. Going in the opposite direction, by say, aggregating data, results in a loss of unique observations from which to characterize and test relationships, and generates a "representative" data set that does not coincide with actual choices.

To elaborate this point a bit, let us go back to our fuel example. Micro-level data (the plant or vessel in our current context) may indicate that "firm one" decreased fuel consumption by 1,000 gallons when fuel costs rose, while "firm two" decreased consumption by 500 gallons. The obvious information here is that the two firms may react differently to input price changes. This would be masked by instead only seeing that total fuel consumption dropped by 1,500 gallons -- when in fact no actual decision maker cut fuel consumption by 1,500 gallons in response to the price change. Furthermore, we would not know if one firm is more price-sensitive than the other is, or if the entire change should be attributed to only one of the firms. At the micro-level, we could examine the scale of the two operations and see if firm one's production was twice the second's (and thus, they reacted the same, but total quantity consumed was different due to their differently sized operations), or if their product mix is more varied and they could thus switch to a less fuel-intensive production plan.

It should be fairly clear by this point that the aggregate response postulates a relationship that does not reflect the observed choices, and often eliminates one's ability to say why changes occurred. In addition to this anecdotal example, there is a vast literature on the effects of aggregation across firms and the conditions under which it is valid. Unfortunately, many of the assumptions required do not coincide with reality. For example, to model the cost structure of multiple fishing vessels using data on total catch and the total quantity (and cost) of the inputs used, all vessels in the sample must have identical marginal costs of production. If this is not the case, and one proceeds with the analysis, the model results will be inaccurate and biased by the aggregation. There are several other aggregation-related issues that not only restrict the types of production that can be analyzed in aggregate, but compromise the interpretability of the results from the models that can be constructed.

It is worth emphasizing at this point that the benefits of using firm-level data in models (increased precision, robustness, and validity of estimated relationships) need not be tainted by concerns regarding elicitation of the detail used to construct them. The results of the models can be presented at an aggregate level – as though the micro-level detail was never there. The essential difference, however, is that much more information went into establishing the relationships described by the model, even though the level of sensitive detail shown in the model results is identical. If there is a large enough sample that sub-groups (with similar operating characteristics) can be broken out without threatening confidentiality, the increased precision of the micro-level data allows for much more accurate description, evaluation, or prediction of the subgroup's choices and/or reactions.

Appendix 3-7 - Section 3

Other Issues Associated with Implementing Mandatory Reporting Requirements

1. Data Collection Mechanisms

As noted above, the existing data collection programs (e.g., the fish ticket, COAR, crab observer, fishery permit, and ADOL processing sector employment data programs) provide only some of the data required to monitor the effects of the crab rationalization program. Furthermore, they collect data on a less frequent basis than that required for the development of economic models required to monitor and predict economic effects. The other required data can be obtained by expanding the current programs and by establishing additional data collection programs such as log book or periodic survey programs. The cost to the industry and the usefulness of the data are two key criteria for determining what mix of these two methods should be used and how to modify each existing data collection program. A cooperative effort among the management agencies and industry will be required to develop efficient and effective data collection programs. Obviously no change could be made to an existing data collection program without the approval of the agency responsible for that program.

2. Data Verification

During the late 1990s, NMFS staff and representatives of the harvesting and processing sectors of the BSAI groundfish fishery had extensive discussions of economic data collection programs. One issue for which there was general agreement was the need for a process to verify the data provided by the industry. Such a process would provide industry with an incentive to supply accurate data and would tend to increase the confidence that industry, management agencies, and other stakeholders would have in assessments based on that data. Therefore, methods of verification are expected to be developed and implemented. This will also require a cooperative effort among the management agencies and industry.

3. Frequency of Data Collection

The frequency at which data would be collected is expected to vary by type of data. For example, ex-vessel price data are collected for each trip but fixed cost data would be collected much less frequently. The cost to the industry and the usefulness of the data are two key criteria for determining how frequently each type of data should be collected. A cooperative effort among the management agencies and industry will be required to determine how frequently to collect the various types of data.

4. Federal and State Reporting Requirements

It is anticipated that some of the data required to monitor the success of the crab rationalization program will be collected under State of Alaska reporting regulation for the harvesting and processing sectors, and that other data will be collected using Federal reporting regulations. When existing State programs are used to collect data, State regulations would be required. Similarly, when existing Federal programs are used to collect data, Federal regulations would be required. It will have to be determined if the new data collection programs that are required will be State or Federal programs with State or Federal regulations, respectively. Although it is assumed that the expansions of existing data collection programs and the implementation of new data collection programs will be principally federally funded, it is expected that there will continue to be a mix of State and Federal data collection programs. If the new programs are implemented by the State, the existing State statute and data sharing agreement for confidential data would need to be modified to provide access to the new data sources to Council and NMFS staff. If new

Federal data collection programs are implemented, the data sharing agreement may need to be amended to provide access to that data by ADF&G staff.

The cost, effectiveness, State and Federal restrictions on data collection programs, and confidentiality are four critical criteria for determining whether new data collection efforts should be administered as a State or Federal program. The plan is to use a cooperative effort among the management agencies and industry to determine what mix of State and Federal programs will be used to collect the data required to monitor the success of the crab rationalization program.

5. Magnuson-Stevens Fishery Conservation and Management Act Considerations

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) contains requirements to monitor the economic and social impacts of fishery management plans (FMPs) and to assess the economic and social impacts of changes to the FMPs. At a minimum, this implies a requirement to collect the data needed to monitor and assess these impacts. However, the MSA also contains data collection restrictions in sections 303(b)(7) and 402.

The relevant language from those two sections with the restrictions highlighted are as follows:

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS

(b) **DISCRETIONARY PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

SEC. 402. INFORMATION COLLECTION

(a) **COUNCIL REQUESTS.**--If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made.

The former restriction (Sec 303) applies to the Councils and the Secretary; however, the latter restriction (Sec 402) applies only to information collection programs initiated by a Council.

"Economic data" is not defined in the MSA but can be interpreted any number of ways.

Put simply, subparagraph 7 both authorizes and limits the collection from processors of "data...necessary for the conservation and management of the fishery". The phrase "would disclose proprietary or

confidential commercial or financial information regarding fishing operations or fish processing operations" is another phrase that can be interpreted broadly like the "economic data". There are innumerable ways to break the phrase apart and try to fit or categorize data in or out of it. There is virtually no helpful legislative history.

Recently at the request of the Council, NMFS promulgated regulations that extended to at-sea processors the requirement to submit groundfish COAR data to the State. State reporting requirements have been in effect for shoreside processors for many years. In reviewing the proposed regulation, General Counsel (GC) had to weigh the phrases above and ascertain if the wholesale price information was "economic data" or "proprietary or operations" data. GC decided wholesale information and the rest of the data collected under the COAR was not exempt from collection.

To ensure that these two data collection restrictions will not prevent the Council and NMFS from obtaining the data required to monitor the success of the crab rationalization program, it probably is necessary to have Congress explicitly provide to the Council and NMFS the authority to collect the types of data discussed in this discussion paper. The Congressional action could include one of the following

- (a) Eliminate these restrictions.
- (b) Eliminate these restrictions, require the Council to collect the data required to monitor the effects of the crab rationalization program, and increase the protection provided for confidential data received by NMFS.
- (c) Eliminate these restrictions, require the Secretary to collect the data required to monitor the effects of the crab rationalization program, and increase the protection provided for confidential data received by NMFS.

In addition, Congress could help ensure that the data required to monitor the success of the crab rationalization program are available in a cost effective manner by providing NMFS limited authority to access information collected by other Federal agencies. One example is the ownership information collected by the Maritime Administration

6. Confidentiality

Protecting the confidentiality of the economic data collected to monitor the success of the crab rationalization program is a very high priority for the management agencies and the industry. Although the MSA, other Federal law, and State law provide substantial protection for such data, methods for providing additional protection should be considered. Those methods could include strengthening existing laws and having some of the data collected by the Bureau of the Census, which has additional legal protections for confidential data. The decision as whether to use State or Federal data collection programs could be made in part based on which alternative provides the greater protection for confidential data.

7. Scope of the Data Collection Programs

The following topics are addressed in this section: (1) the need to collect sufficiently detailed economic data on harvesting and processing activities both before and after the crab rationalization program is implemented; (2) the need to collect economic data for all of the economic activities of the firms participating in the BSAI crab fisheries; and (3) the required level of detail of the economic data.

How Many Years of Data

In order to monitor the success of the crab rationalization program, it will be necessary to collect economic data for one or more years preceding program implementation. This data would provide a benchmark that would allow for "before and after" comparisons. Different data collection mechanisms may be appropriate for the pre-implementation data and post-implementation data, unless the data collection can be put in place one or more years before the crab rationalization program is implemented. Once the program is implemented, ongoing data collection programs will be required to allow periodic assessments of the success of the crab rationalization program and to identify ways to make the program more successful.

Economic Data for All Fisheries

The effects of the crab rationalization program will depend not only on how it affects economic activity in the BSAI crab fisheries, but also on how it affects the economic activity of BSAI crab fishing vessels and processing plants in other fisheries. Therefore, the success of the crab rationalization program cannot be fully assessed without data for the full range of fishery activities of those vessels and plants.

Required Level of Detail

The level of detail that is required naturally depends on intended uses of the data. At the very minimum, analysts will require the data necessary to construct the objective measures discussed in this discussion paper. Such a level of detail will allow analysts to show how the objective measures may differ in the pre- and post-rationalization periods, but will not allow them to: (1) determine which changes were principally the result of the crab rationalization program, as opposed to other external factors or (2) predict the changes that would occur over time with the crab rationalization program as initially implemented or with proposed changes to the program after it is implemented.

Appendix 3-7 - Section 4

Additional Issues Concerning Data Collection

Between the April and June 2002 Council meetings, informal discussions were held with members of the agencies involved in crab management and the fishing industry regarding the collection of economic data. While these meetings did not define a complete program to collect economic data for the BSAI crab fisheries, they did provide insights into the types of data that would be required and some of the concerns members of industry have with providing the data. These issues are discussed in more detail in the remainder of this section.

Data are proposed to be collected from shore-based processors, harvesters, catcher/processors, and floating processors (floaters). A distinct data collection procedure would be developed for each of the four industry segments listed. The goal of the program would be to collect the data that are needed by analysts to study the impacts of the crab rationalization program in addition to collecting the data that would be needed for future BSAI crab FMP amendments.

Summaries of the data that were proposed to be collected are provided in Appendix 3-8. A separate list was generated for each of the four industry segments (i.e., shore-based processors, harvesters, catcher/processors, and floaters). These lists were developed by using the surveys constructed for harvesters and processors by the North Pacific Crab Association. Their surveys were expanded to create the lists attached in Appendix 3-8.

Preliminary meetings with some members of industry have allowed them to express concerns over specific aspects of the data collection program. Foremost on their minds were concerns over who would have access to the data and how enforcement would react to data that were submitted and later determined to contain errors. These two issues will be addressed first; then other topics discussed during the meetings will be presented.

Protection of Confidential Data Members of the fishing and processing industry have indicated that before data are collected there must be regulations established that protect the data from being released for reasons other than the purposes for which it was collected. Individuals have stated that in the past data have been provided to agencies on a voluntary basis. Those data were then forced to be released, through court proceedings, and used in lawsuits against the companies that provided the data. Because of such incidents, members of industry feel it is imperative that laws are in place which preclude the data from being used by individuals that are not intended to have access to the data. Authorized agency staff from NMFS, ADF&G, and NPFMC are currently defined as the primary users of these data. Other users would include individuals that are contractors of the above agencies that are conducting research associated with the BSAI crab fisheries. Examples include agencies like AKFIN or PSMFC that are involved in maintaining and supplying data to other agencies. University faculty conducting research for one of the above agencies would also be envisioned as users that would be given access to these data. The release of these data outside of the primary users or for other purposes would be strictly regulated. NMFS has stated that protecting the confidentiality of the data will be one of its highest priorities.

NOAA GC will need to be involved in the development of laws designed to protect the data being collected so that the data are collected under an appropriate statute. Their input will help ensure that the goals set out for the protection of these data are strictly adhered to by all agencies. Until legal advice is received, it is not possible to address the specific laws that need to be added or modified.

Other laws will require modification to allow the collection of these data. Those issues were addressed in earlier sections of this document.

Ensuring Data Accuracy Regulations need to be developed in order to ensure the accuracy of data being provided and protect the suppliers of the data from fines or other penalties when good faith efforts were made to supply accurate data (even though errors may be found). To help protect both the providers of the data and the agency collecting the information, a review process could be established to ensure the data being submitted is accurate. This could be accomplished through a review of the underlying information by an auditor. While the review of the data would not likely be an official "audit" in the accounting sense of the term, it would be an established procedure that could be used to verify the accuracy of the data being submitted.

Input from certified public accountants was solicited when NMFS was developing the pollock data collection program. Knowledge gained from that processes could be used as a starting point from which procedures for verifying crab data could be developed.

The second concern with the accuracy of data being submitted deals with the enforcement/laws under which the data are collected. Members of industry are concerned that fines or jail time could result from accidental submission of incorrect data. If a firm's data are determined to contain errors, a mechanism for correcting the problem must be in place. If it is determined that the data were willfully and purposely submitted in error, enforcement proceedings against the firm should be initiated. In cases where there was no intent to misrepresent the activities of the firm, corrections to the data should be made without imposing sanctions against the firm that submitted the inaccurate data. It will be up to legal experts to develop regulations that accomplish the desired result.

Other Issues Several other issues that industry members felt were important to consider during the data collection process were discussed during the meetings. Those issues are listed below and each is then discussed briefly.

1. Some cost data are not solely assigned to crab production.
2. The cost of borrowing money is different depending on its source (i.e., CCF funds vs bank loans).
3. Industry needs to understand why collection of the data are important and how it will be used.

The first issue raised by members of industry is that not all costs are specific to the crab fisheries. Obtaining an accurate description of costs will require that these costs are somehow divided among the appropriate fisheries. For example, a processor that produces both crab and pollock may purchase permits, land, equipment, or labor that is used in both fisheries. The costs associated with those inputs must be apportioned among the two activities to estimate the expenditures associated with crab production.

There are a variety of ways the costs could be apportioned among activities (based on value, volume, production time, etc.). Selecting the best method for dividing the costs among the various operations of the firm will require a cooperative effort of the analysts and industry.

The next issue of concern pertained to the cost of borrowing money. Fishermen can often access loans at lower rates than are available in the open market (CCF funds are an example). Understanding the impacts of being able to access money at a lower interest rate was felt to be important in the crab fishery, where owners require substantial amounts of capital to purchase vessels and gear.

While other issues were raised during the meetings with members of industry, the last issue that will be addressed here is the importance of providing an understanding of why the data are needed. The earlier section on data collection in this analysis, provided by NMFS, provides a good discussion of why the data are needed. In addition to that discussion it is important to look at the Council's problem statement for the crab rationalization issue to understand why these data are needed.

DRAFT

**Minutes from the July 25th Meeting of the
Crab Rationalization Data Collection Workgroup.**

The following individuals were in attendance for the meeting. Note that members of the workgroup that were appointed by the Council are listed with an asterisk next to their name.

Glenn Reed*	Mark Fina
Kevin Kaldestad*	Darrell Brannan
John Garner*	Dave Colpo
Gary Painter*	Ron Felthoven
Doug Wells*	Joe Terry
Terry Leitzell*	Jeff Harman
Tom Casey	
Margaret Hall	

Terry Cosgrove and Joe Plesha are also members of the workgroup, but were unable to attend this meeting.

John Garner and Gary Painter were elected as co-chairs of the workgroup. Co-chairs were elected to help provide a balance between the harvester and processor interests as the data collection process moves forward.

Mark Fina provided an overview of the current time lines for completing the analysis of the crab rationalization program. The goal of the workgroup is to have the analysis of the data collection aspects of the program included in the analysis when it goes forward for initial review. That will likely occur in December. To meet that time line the program will be presented to the Council in October when it reviews all of the trailing amendment packages. The Council would then be on a schedule to take final action on the crab rationalization EIS/RIR/IRFA in April of 2003.

Considerable discussion and comments occurred on the structure, detail, and definitions used in the draft surveys developed by the NMFS Alaska Fisheries Science Center for the crab fisheries. Ron Felthoven will be responsible for incorporating the workgroup's comments into a revised draft of the surveys that is to be available for review at the next meeting.

The workgroup provided several comments regarding the need for additional information and the structure of that data collection system. Major points from the group's discussion were:

1. Industry suggested that historical data over a longer period of time (such as five years, or back to 1997) would be more meaningful compared to the two years prior to implementation of the data collection program that was initially suggested. The two years prior to implementation were years when the GHL's were low and several fisheries were closed, and therefore may not be representative of a participant's historic fishing activities.

Data for the longer time period should be accessible to most harvesters that use computers in their operations and processors so long as they could refer to internal company summaries and recaps for the data. If source documents were required for processors to access the data, then it may not be possible to supply the data with the accuracy requested, and the data may be very expensive and cumbersome to produce.

The collection of historic data should be mandated by Congress to ensure that the data can be protected from unauthorized access. It would also help to ensure that all members of the crab harvesting and processing industry comply with the program. Currently NMFS cannot mandate the collection of data from past fishing seasons, such a mandate would require Congressional authorization.

2. NOAA GC and the State of Alaska Attorney General's office should provide a side-by-side comparison of how data could be protected under their regulatory structure when data are submitted to a third party, under a mandatory data collection program, and under a voluntary data collection program. This discussion should also include a discussion of the various State and Federal rules governing the release of confidential data. Industry attorneys noted that under the current interagency data sharing agreement between NMFS and ADF&G, the agreement, by itself, is not sufficient to protect FOIA requestors from accessing confidential ADF&G data. Though the ADF&G data is collected under a mandatory State data collection system there must be some form of sufficient Federal law requiring protection of this type of data from FOIA of federal records. It was not determined at this meeting if any such protective federal laws exist. Darrell Brannon agreed that he would forward some questions to NOAA GC and Kevin Duffy. This would aid in answering these legal questions. If Federal law does not provide adequate protection of data supplied by ADF&G, the committee may recommend measures to correct that deficiency.
3. NMFS enforcement should provide a report on the penalties that will be imposed when errors in the data are found. This would include errors that are deemed to be inadvertent as well as intentional misstatements of data.
4. A discussion of whether the aggregation rules of 3 (used by NMFS) or 4 (used by the State of Alaska) are the proper rules to use when reporting the economic data collected under this program. We should develop alternative rules that better protect these data - if additional protections are needed.
5. A single method to allocate fixed costs should be selected. Members of industry have suggested using purchase dollars, sales dollars, purchase pounds, finished pounds, operating days, or relative labor costs. The method selected should be used throughout the life of the data collection program to allocate fixed costs. The government agencies support the collection of certain verifiable data on fixed costs that is required to address crab rationalization policy questions developed by the Council. Particularly, they agree that fixed costs would lend themselves to determining the distributional impacts and indirect effects of crab rationalization. The method to be used for allocating these fixed costs should be determined for the specific application by the agencies, with careful consideration of input from the industry. The allocation method may depend on the policy question being addressed. If industry is requested to supply information on allocation of fixed costs, a specific method should be specified by the data collection agencies throughout the life of the data collection program.

6. The persons that is responsible for the fishing operation and processing operation would be responsible for filling out the cost surveys and the person that leased the QS would be responsible for reporting the amount of revenues generated from the lease. Depending on the roles skippers play in harvesting their IFQ, they may need to respond to one or both surveys.
7. The cost of repacking crab needs to be captured in the surveys.
8. CDQ crab needs to be accounted for in the surveys filled out by both harvesters and processors.
9. Processors cannot assign labor costs by month. Those costs can be more accurately assigned by fishing season.
10. The issue of whether revenue information needs to be collected on sales that were made to related firms, or whether it would be more appropriate to collect only revenues from sales that were made to unrelated firms needs to be addressed. Some believe that transfers that occur within a company may not result in a credit to the processor equal to the true market price. Therefore, it may be more appropriate to apply the average price of the transactions that occur between unrelated firms to the sales of crab that take place within a firm. Others believe that sales data should not be categorized by whether the transaction was between a related or unrelated party. Current US law and corporate practice is to state a revenue amount for related party transactions based on market value, and there is therefore no need for separate data categories of this nature.
11. The draft surveys should identify whether the information asked for in a particular question could be obtained from another source that already collects the information. That source should be identified. The public agencies agree that collection of duplicate information should be minimized, except where some duplicate identifier variables are needed (e.g. vessel ID, permit number).
12. Ownership information will need to be collected, as it is essential for determining the benefits, costs, income and distributional effects of the program
13. This program will focus on the crab fisheries with minimal information being collected for other fisheries.
14. Existing data sources should be used to the extent possible
15. Why is economic data being collected only from the crab fishery participants? Other fisheries, such as pollock, sablefish, and halibut have been rationalized but participants in those fisheries have not been required to submit comparable data. Members of the committee also questioned why the crab fishery participants have to provide revenue data from non-crab sources.
16. Ongoing communication is needed between the agencies and industry members to ensure data quality as well as proper use of the data.
17. The uses of data should be identified. The planned uses should be identified early on in the process. *(Note that a partial answer to the question is that the data are needed to address the*

Council's problem statement and the objective measures identified by the SSC at the request of the Council.)

18. Industry representatives recommended that the data collection portion of the program should not hold up implementation. Representatives of the public agencies offered no specific confirmation that implementation of the program would not be delayed without the necessary data collection.
19. Trip level data would be submitted on an annual or seasonal time frame.
20. Problems with a consistent pre and post rationalization identification of the entities on the harvester side (what is the firm?) were discussed with no final resolution. As the primary intent of the Council seems to be the determination of pre and post distribution of quasi rents and other distributional effects, this objective is complicated by the fact that the definition of a harvesting entity is going to change under rationalization. Under the present regulated access condition, the entities are (1) vessel owners, (2) CFEC permit holders and (3) owners of LLP licenses. After rationalization, the owners of QS, may no longer be LLP qualified, if they buy quota. However vessels will still need to be tracked, as will permits issued by the CFEC. A plan for tracking a single set of entities through the structural changes anticipated in the program is needed.

Finally, a list of assignments was made at the end of the meeting. Those assignments were as follows:

1. Glenn Reed would develop a list of questions for NOAA GC and the State AG regarding protection of confidential data.
2. Ron Felthoven would rework the questionnaires given the input from this meeting as well as additional comments that will be emailed. The revised questionnaires will be available the week of July 29th.
3. John Garner will develop a short discussion regarding the issue of related party transactions
4. Gary Painter will provide a blank copy of his vessel summary sheet. John Garner will try to provide similar information from the processors.

The next meeting is scheduled for August 7th at 9:00am.

DRAFT

**Minutes from the August 7th Meeting of the
Crab Rationalization Data Collection Workgroup.**

Participation:

The following individuals were in attendance.

Glenn Reed*	Mark Fina
Kevin Kaldestad*	Darrell Brannan
John Garner*	Lew Queirolo
Arni Thompson	Ron Felthoven
Doug Wells*	Joe Terry
Margaret Hall	

The following individuals were linked to the meeting via teleconference

Dave Colpo	Jeff Passer
Tom Casey	Tom Meyer
Jeff Hartman	
Gary Painter*	

* Indicates official members of the workgroup that were appointed by the Council

Terry Cosgrove, Terry Leitzell, and Joe Plesha are also members of the workgroup but were unable to attend this meeting.

Meeting Summary:

Jeff Hartman provided several suggested changes to the minutes from the July 25th meeting of the workgroup. Those changes were accepted by the workgroup and those changes will be made to the minutes from that meeting.

Ron Felthoven provided a review of the changes that have been made to the surveys since they were reviewed at the July 25th meeting. A brief summary is as follows:

1. Costs that are collected on an annual basis were broken up into three categories, based upon the way they could be allocated: vessel-specific crab costs (those that need no prorating), vessel-specific costs (those that only need to be prorated among a vessel's crab and non-crab activities), and vessel-related costs (those that must be prorated among multiple vessels and among crab and non-crab activities). The same was done for processing plants.
2. Historic surveys were changed so that the most temporally specific information was at the "fishery" level (rather than trip- or week-level data).
3. Cost categories were added for freight and broker's fees.

4. Line-level detail was excluded from all processor surveys

The workgroup requested that in the future Ron track the changes made on the survey to aid the reviewers in understanding the exact changes that were made.

After Ron provided a brief overview of the major changes to the document, the group went over the processing sector surveys line-by-line. That review of the surveys yielded the following opinions by the members of the workgroup and others in attendance:

1. Use of the Federal Tax ID to track firms is not a good method. There was concern expressed over the usefulness of the Tax ID as well as how it would be used. The analysts indicated that it was not their intent to link the number to tax records. Instead it was considered to be an identifier that could be used to track a taxable entity. After that discussion it was recommended that the Tax ID be dropped as a means to identify entities.
2. The industry members of the workgroup suggested that the COAR be used to track dependence in other fisheries. They felt that the COAR is a verified annual census of all processors in the State of Alaska. Gaps in the COAR data that may exist in the offshore sector should be addressed instead of requiring all processors to file another survey that addresses their participation in other fisheries.
3. Members of the workgroup and agency staff members have struggled with selecting the best method for determining the value of the plants and vessels operating in the BSAI crab fisheries. Insured value has been suggested as a method, but rejected because of the different philosophies owners may use when setting the insured value. It was also suggested that the insured value might change after quota shares are issued. Estimated market value less depreciation was also suggested. That figure was also considered to be too hard to estimate consistently. Ultimately it was suggested that the government hire a surveyor to set a consistently estimated value for each of the plants and vessels.
4. The industry members of the workgroup next inquired as to the purpose for collecting workers SSNs. Agency staff indicated that the SSNs would be useful in determining the total number of people employed, as well as movement of those individuals as they change jobs. Members of industry indicated that supplying SSNs might be difficult for the historic time period. They also felt that going back in time would increase the likelihood that reporting errors will occur. Industry members also indicated that if SSNs are only going to be used to determine the total number of employees, then SSNs are not needed and a question asking for the total number of employees should be asked instead. Going forward in time is not expected to present as much of a problem. Industry members also indicated that assigning some workers to an activity would be difficult for both historic and future surveys.
5. Members of the workgroup indicated that if the survey asks for separate information on sales to related and unrelated firms the survey should use the Council's definition of "related firms". Firms that sell crab have also indicated that they believe sales to related firms represent a fair market price. Ultimately industry recommended that we do not separate sales to related/unrelated firms.

6. It was noted that the terms of sale are important to understanding the reported sales price, but they will not be captured in the survey. Terms of the sales were considered too varied to collect in a survey.
7. The workgroup received a short presentation from Tom Meyer (NOAA GC) and Jeff Passer (NMFS Enforcement). Tom discussed, in general terms, issues relating to protecting the confidentiality of the data and changes in statute that are needed to collect the data. A list of question that was developed for NOAA GC is included under the "Other Assignments" section. That list will be forwarded on to Tom so he can provide guidance ASAP. Jeff provided a general discussion of how the program would be enforced. However, the program needs to be fleshed out before a detailed description of the enforcement program can be provided.

Considerable time was also spent going over why the detail asked for in the surveys is necessary. It was decided that Ron Felthoven would provide a short summary of why each of the data pieces are needed in the form they are requested. This will be available at the next meeting.

Several other changes to the survey were also suggested. Ron will incorporate those changes in the next draft of the surveys that should be available at the August 20th meeting of the workgroup.

Other Assignments:

John Garner volunteered to provide a short discussion on the issue of sales to related and unrelated firms.

John Garner and Glenn Reed will report back to the workgroup on whether it makes sense to ask for sales to domestic versus foreign markets. Darrell Brannan will provide information on export data that is currently being collected by the Federal government.

Ron Felthoven will provide a discussion of why detailed data (as proposed in the surveys) are needed to perform economic analyses. This discussion may also include information collected from other industries that have exclusive use rights to Federal resources (timber and land for example).

Ron Felthoven will revise the surveys based on input at this meeting. The revised surveys are expected to be available for use at the next meeting.

Darrell Brannan will provide a discussion on how entities will be tracked pre and post implementation of the crab rationalization program.

John Garner will look at the cost categories in Sections 6.1, 6.2, and 6.3 of the survey to ensure that the list includes the appropriate items.

Darrell Brannan will provide the following list of question to NOAA GC so they can provide the workgroup guidance on the issues.

1. Under what circumstances can the data collected under this program be legally protected?
2. What statutory and regulatory language would be suggested to best protect the data from being released do to FOIA or court order?
3. Can we require that SSNs be provided as part of this data collection program?
4. Can the data be better protected if they are submitted to a third party (i.e., PSMFC)?
5. Is sharing of this type of economic data covered under the current MOUs between NMFS and the State of Alaska?

DRAFT

**Minutes from the August 20th Meeting of the
Crab Rationalization Data Collection Workgroup.**

Participation:

The following individuals were in attendance.

Terry Cosgrove *	Mark Fina
Kevin Kaldestad*	Darrell Brannan
John Garner*	Lew Queirolo
Arni Thompson	Ron Felthoven
Terry Leitzell *	Joe Terry
Margaret Hall	Jeff Hartman
Gary Painter*	Tom Casey
James Mize	

Tom Meyer of NOAA GC was linked to the meeting via teleconference.

* Indicates official members of the workgroup that were appointed by the Council. Glenn Reed, Doug Wells, and Joe Plesha are also members of the workgroup but were unable to attend this meeting.

Meeting Summary:

The meeting started with a discussion of the purpose of the workgroup and what the end product of these meetings should be. It was noted that output from this group would be given to the Council in the form of their meeting minutes. In addition, it is expected that the products of this workgroup would be incorporated into the trailing amendment that is being developed for the Council's October 2002 meeting.

Concern was once again expressed regarding the level of detail that is being asked for in the surveys. It was also noted that some of the data potentially being required may not be collected given the constraints on data collection currently in the MS Act.

One person thought that perhaps the focus of data collection should be on fisheries that are more profitable than crab (pollock was suggested). The suggestion was noted, but was thought to be outside the scope of the workgroup's assigned task and was not discussed further.

Ron Felthoven presented his discussion paper on why firm level data are being requested, the need for disaggregated data, and the importance of collecting sufficient observations to conduct research that offers information on statistical significance.

Members of the workgroup asked that the agencies represented discuss the rules for data sharing within and among their organizations. The NMFS and ADF&G data sharing agreement was distributed to the workgroup. Each agency also discussed the internal methods used to ensure data are maintained in a confidential manner. Each agency uses a slightly different method. The Council and NMFS require each employee to sign a form stating that they must prevent the release of the data except in aggregate form or they can be held liable. The methods used to protect data held by the State of Alaska likely vary by agency. However, it was indicated that members of ADF&G staff were not required to sign a special

form solely to access confidential data. However, it is clearly understood that release of the data is prohibited except to approved users. It was also stated that some data may be more widely used within the agencies than others. A suggestion was then made that if the workgroup wishes to make a statement regarding who should have access to the data they should provide that to the Council as part of their report. A small working group was then formed to develop a discussion paper on confidentiality of the data. That paper will be presented to the Council's workgroup at their September 5th meeting.

Enforcement would have access to any of these data unless they were precluded through statute or regulation.

Additional questions were raised regarding whether the staffs of the Oregon Department of Fish and Wildlife and the Washington Department of Fish and Wildlife would have access to these data. It was indicated that under the current data sharing agreements they would not have access to the confidential data, but could be provided summaries that are not confidential. New agreements would be required before they could access the confidential data.

Potential advantages and disadvantages of submitting data to a third party and having them assign a unique code to identify the individuals and firms was also discussed. The purpose would be to help protect the confidentiality of the data. It was noted that even using codes for names it would still be possible (at least in some cases) to identify the firm using existing data sources.

Staff members from the agencies that would use these data thought that only having access to a code should not present substantial problems in their work, as long as the information could be linked to other data sources such as fishtickets and the COAR.

The workgroup discussed whether information to estimate profits is needed or whether information used to estimate quasi-rents (revenue less variable costs) is adequate. Because of problems assigning fixed costs across the entire operation and the inaccuracies that could be introduced, it was felt that quasi-rents may be a better indicator of changes that take place in the crab fisheries.

Ron presented a short discussion of how changes in capacity and capacity utilization can be estimated. There was some confusion in the difference between capacity and efficiency, so a discussion of those terms in an economic sense was also provided.

Members of the industry indicated that it makes more sense to collect data on a seasonal basis rather than trip-by-trip. Most firms retain data on seasonal basis. Forcing them to allocate costs to a trip could introduce inaccuracies. It was generally agreed that this would be acceptable.

A discussion of how a season might change after rationalization followed. Industry members pointed out that after rationalization trips would likely be taken to harvest multiple species of crab. Cost of harvesting a specific species of crab on a trip might then be muddled even further.

The group discussed that it may be possible to obtain information regarding harvest crew using the numbers issued to them in the crew license files and the CFEC permit file. Members of industry noted that they expect the number of crew size per vessel to decrease by about one after rationalization.

Ron provided a summary of the revised surveys. The workgroup provided input on changes to be made. Those will be incorporated into the surveys for the next meeting.

Jeff Hartman will provide his comments on where data requested in the surveys can be found in other sources to Ron. That information can then be incorporated into the revised surveys where necessary.

Tom Meyer provided two handouts to the workgroup. The first was a response to some of the questions¹ asked of NOAA GC at the last meeting. The second was a copy of NAO 216-100 regulations that define the "Protections for Confidential Fisheries Statistics".

Tom indicated that in his opinion the "Reciprocal Data Access Agreement" between NOAA, ADF&G, and CFEC should be reviewed to ensure that data collected under this program are adequately covered by that agreement. Substantial time may be required to rework that agreement.

Assignments from the meeting

John Garner, Gary Painter, and Terry Leitzell will develop a paper related to the issue of confidentiality. That paper will be presented at the next meeting on September 5th.

Ron will redraft the surveys given input from this meeting.

Darrell Brannan will provide the following list of questions to NOAA GC so they can offer the workgroup and Council guidance on these issues.

1. Can NMFS require the submission of cost and earnings data if the Council is precluded from requiring that information?
2. What legislative language would best protect the data submitted under this program?
3. Under what circumstances can the data collected by a third party be accessed by (a) the public or (b) NMFS or the Council?
4. Review the "Reciprocal Data Access Agreement" to ensure it covers data collected under this program.

¹ They included (1) Under what circumstances can the data collected under this program be legally protected? (2) What statutory and regulatory language would be suggested to best protect the data from being released do to FOIA or court order? And (3) Better protection of data submitted to a third party.

DRAFT

Minutes from the September 5th Meeting of the Crab Rationalization Data Collection Workgroup.

Participation:

The following individuals were in attendance.

Terry Cosgrove *	James Mize
Kevin Kaldestad*	Darrell Brannan
John Garner*	Lew Queirolo
Arni Thompson	Ron Felthoven
Terry Leitzell *	Joe Terry
Margaret Hall	Tom Casey
Doug Wells*	

Gary Painter*, Jeff Hartman, Mark Fina, Kurt Schelle, and Tom Meyer of NOAA GC was linked to the meeting via teleconference.

* Indicates official members of the workgroup that were appointed by the Council.

Glenn Reed and Joe Plesha are also members of the workgroup but were unable to attend this meeting.

Meeting Summary:

The focus of the meeting was to provide the catcher vessel, catcher/processor, and processor sectors the opportunity to present their proposals regarding what data should be collected by the Council to meet the objectives outlined in the June crab rationalization motion. Representatives of the committee provided papers describing their position to the members of the workgroup prior to the meeting. Those papers served as the starting point for each sector's presentation.

Members of the industry workgroup were in general agreement that they would rather supply additional data to a third party rather than supplying less data to an agency that could be linked to existing data sets (i.e., fishtickets, vessel registration files, COAR, etc.). They felt that supplying additional data in a "blind" format would result in them incurring higher costs to meet the requirements, but it would provide greater protection for their confidential data. Given the trade off, and their concern that these sensitive data be closely held, they would prefer to spend additional money with the expectation that it would help to ensure that their confidentiality is maintained.

Representatives from the public agencies provided some initial thoughts on potential problems with the use of an independent agency for creating blind data sets.

1. Costs to the public agencies as well as industry would increase because third party suppliers would need to become experts in all State and Federal data sets, to be able to be able to supply meaningful data. Blind identifiers would need to be developed for all existing data sets that would be merged to construct a set of observations for statistical analysis.
2. Identifiers for any new data sets collected after the program was in place, that were deemed to have useful economic data, would need to be provided to the third party, and a set of blind identifiers would need to be generated.

Finally, creating a truly blind data set, might not prevent a knowledgeable analyst with access to the State vessel file, permit file, and fish ticket file from identifying entities that industry wishes to protect. Unless restrictions were placed on the use of data in this way the third party system may offer less protection than anticipated by industry.

A discussion of the need for information on the quantity of inputs purchased was also held at the meeting, since the position papers generally only referred to input costs. Agency staff indicated that quantity and cost information was needed to understand efficiency changes. Members of the industry recognized the economist's need for quantities purchased, but no consensus among all sectors of the industry was reached in terms of providing those data. That issue will likely be discussed at future meetings of the industry.

Two other types of data that were excluded from the industry proposals were expenditures by location and plant or vessel specific annual costs. Without those types of data some objective measures of the success of the crab rationalization program cannot be generated

Gary Painter was first to present the views of the people he represents. His presentation started by indicating that in their view (his constituents) the data being requested was "proprietary, confidential, and financial in nature". Further they felt that harvesters never agreed to provide these data as part of the crab rationalization "deal". Mr. Painter also indicated that several people that he has spoken to resent being singled out for data collection. They feel that participants in other rationalized fisheries (such as pollock, halibut, and blackcod) were not required to submit similar types of data when they were rationalized, and the crab fishery should not be the only group required to provide this type of information.

Mr. Painter felt that no additional economic data are needed because a binding arbitration program based on the division of first wholesale revenues will help ensure fair ex vessel crab prices. If the binding arbitration program needs to collect cost/revenue data, he suggested it should be collected by a third party and not be made available to agency personnel.

In summary, Mr. Painter's paper proposed that the fishticket program continue to collect information on crab harvests and that ownership information be collected to enforce the caps outlined in the crab rationalization program. If additional information is requested by the Council (they recommend that it not be requested), then information should be submitted to a third party and supplied to agency staff with only coded identifiers (blind data) to enhance confidentiality. They also requested that the written data sharing agreement between the Council, NMFS, and ADF&G be reviewed and updated if necessary. Finally, they felt that the standards and penalties for unauthorized release of the data should be uniform across all the agencies that are allowed to access the data.

Kevin Kaldestad presented a proposal developed by the Alaska Crab Coalition (ACC). Under that proposal catcher vessels would supply variable cost data, revenue data, employment data, and ownership data, but are concerned about the level of detail being requested in the surveys that have been developed in the workgroup to date. The people represented by the ACC also requested that any new data being collected be submitted to a third party to help protect the confidentiality of the data. The ACC recommendation stated that variable costs and revenues could be used to estimate quasi-rents (variable costs - revenue), and that level of information is adequate to address the mandate of the Council. Including fixed costs in the survey would require the apportioning of fixed costs among a firm's crab operations and that could introduce inconsistencies in the treatment of the data. Those inconsistencies were listed as a primary concern in the ACC proposal in terms of collecting and using fixed cost data.

Ownership data was proposed to be provided at a level similar to that used to monitor the halibut and sablefish IFQ program and the BSAI pollock fishery. The ACC proposal was in agreement with the proposal from Gary Painter in that the interagency MOU for data sharing should be revised where necessary to protect data from unauthorized release. Their proposal also stated that legislative language should be developed to further protect the confidentiality of the data.

The ACC proposal recommended that variable cost and revenue data be provided on a fishery-by-fishery basis. Employment data would also be provided and it would include the name, state of residence, and SSN of each crew member. Variable costs would be provided for (1) fuel, oil, and hydraulic fluids (2) insurance (3) crew costs (4) bait (5) fishing related taxes (6) observer costs and (7) miscellaneous costs. The ACC proposal, as written does not provide any information on the quantities of variable inputs. As stated earlier, there was a discussion with the agency staff of the need for this information to explain any observed changes in the industries' cost structure.

Finally, the ACC proposal stated that historic data would be collected for the years 1999-2001. Members of industry indicated that they would review the years to be included in the data collection program at their next meeting. Therefore, the years listed in the ACC report may be subject to change.

Doug Wells presented the catcher/processor's perspective on data collection. Mr. Wells stated that the catcher/processor data submissions would likely be a synthesis of the catcher vessel and processor requirements. Like the ACC proposal, the catcher/processor's proposal did not provide any information on the quantities of variable inputs. He noted that about eight catcher/processors are currently operating in the crab fisheries and they are heterogeneous in their operating characteristics.

The catcher/processors indicated that they would prefer to supply data to a third party to help protect the confidentiality of the data. They would prefer providing "blind" data, even if it requires them to submit more information, rather than information that can be linked to existing data sources. They also recommended that data should only be collected to the level of variable costs. Fixed costs should not be collected as part of this program. Their statement also implied that they would be willing to supply information on vessel ownership as well as employment information. Finally, they indicated that they could "live with" the survey that has been prepared by Ron Felthoven for the previous workgroup meeting.

John Garner presented the processor's proposal. The processors felt that they faced many of the same issues that were concerns expressed by the catcher vessel representatives.

The processing sector indicated that they are willing to supply ownership data. They felt this information is appropriate and should be supplied at a level similar to that collected to monitor consolidation in the halibut, sablefish, and pollock fisheries. Employment information would also be provided. They are willing to provide wage information for direct labor associated with the processing of each crab species, including SSNs for those employees. Processors are also willing to provide revenue data by size and grade for each species (and associated information) that would allow revenue to be stated on an FOB Alaska basis. Cost data would be supplied for the direct production costs of each crab species (variable costs). They do not believe that non-variable costs are needed and cannot be allocated to various fishery activities in a uniform, consistent manner, and that therefore the data would have little use to the council. Processors also believe that there is no justification in the Council's motion to collect information beyond the crab fisheries. They also believe that redundant information should not be collected if it is available (and can be linked to the data that is being collected).

In terms of how the data will be provided, the processors felt that data should be submitted to a third party. The processors would prefer to submit aggregate data to the third party but understand that this

may not allow the analysts to conduct rigorous analyses. Therefore, they would like to explore the feasibility of the third party providing only aggregated to the agencies.

Mr. Garner also indicated that the current MOU allowing data sharing among the agencies should be reviewed and updated if necessary. This process should begin immediately given the time it has taken for these types of review to be completed in the past. The agencies should also develop Federal and State regulations governing access and use of the data collected under this program. The goal of those regulations would be to allow the data to only be used to analyze the impacts of the crab rationalization program and ensure the confidentiality of the data that are collected.

The processors continue to be concerned with the enforcement of the program and the penalties that will be imposed when errors in the data are found. Their two main areas of concern are 1) what is the consequence of unintended data submission errors and 2) when must the data be submitted. Little information could be provided in terms of the consequences of data submission errors. That will need to be worked out with NMFS enforcement. However, members of the agencies present at the meeting indicated that they do not need "real time" submission of the data, and the three-month lag period proposed by the processors would allow them to conduct the analyses that would be required.

Each of the written proposals provided to the workgroup are attached to these minutes as the "Position Paper Appendix" and provide additional detail on the positions taken by member of the workgroup.

After the meeting Mr. Garner sent additional information on the kinds of data the processors are willing to provide. A summary of his statement is included at the end of the processor's position statement in the Appendix. In general, the processors agreed to supply the location of variable input purchases, the quantity of variable input purchases, and revenue information in the format requested in Ron Felthoven's survey.

Tom Meyer, representing NOAA GC, connected to the meeting via phone and provided an update on the questions he has been asked to research. He indicated that, due to the short time between meetings, he has not been able to determine if NMFS can require data collection from the crab fishery participants if the Council does not include it as part of their FMP amendment package. He also stated that he would prefer that Congress clearly state what data may be collected under this program when they make modifications to the MS Act. He also indicated that it is too early for NOAA GC to draft language to protect the confidentiality of the data. The program needs to be more clearly defined before that can take place. Mr. Meyer also indicated that a FOIA request could reach information that is under the "control" of the government. It could be argued that data submitted to a third party is under government control and could be reached through a FOIA request. Therefore, under the existing law, the use of a third party for data collection and dissemination may be equally or more vulnerable to FOIA than the current protections provided through the agencies. It was recommended that if the objective is to prevent any release of sensitive data, then legislation would need to make this clear while simultaneously mandating its submission to a third party contractor (if a third party contractor is used to collect the data). Rules governing the release of the data to any class of individuals (public, NMFS, ADF&G, Council, etc.) could then be specified in the legislation.

Mr. Meyer also indicated that any data collection program (including data collected by a third party) would likely not be approved by the SOC if NMFS enforcement were restricted from accessing the data. Compliance monitoring is critical part of any mandatory data collection program and enforcement would play a key role in ensuring that people fulfill their commitment to supply these data.

Representatives of the crab data collection workgroup are scheduled to meet again on September 16. Members of industry will compile the results of that meeting and make them available to Council staff so they can be incorporated into the "trailing amendment" that is being prepared for the Council's October meeting.

POSITION PAPERS

Gary Painter's Position Paper on Crab Data Collection

Re: Data Collection from Harvesters

I have received numerous calls from those in the fleet whom I consider to be my constituents. I have thought long and hard about data collection. What I have come to is this:

The data collection being asked for by NMFS and ADF&G as representatives of the Council is proprietary, confidential, and financial in nature. **Magnuson-Stevens** specifically protects our privacy on these counts in Section 402.

There were many concerned about a 2-Pie program. The BSAI crab processors made a deal to provide their own proprietary business information, in exchange for a 2-Pie program.

We harvesters never gave our consent to that deal. But I am still for rationalization, because fleet consolidation is mandatory for our survival. I continue to stand behind and rely on our confidential protection under **MSA-96 Section 402**.

The Council declared in its **BSAI Crab Rationalization Report to Congress** that "...It may not be the appropriate model for other fisheries in the Nation...and is not intended to be a template for other fisheries..." Many of those I have spoken with resent being singled out for micro-economic scrutiny while ignoring (for instance) the successful halibut & sablefish fisheries, and the wildly successful pollock fishery.

I propose:

1. Continued **mandatory and timely** submission of traditional fish ticket information for each trip, because it is the real world basis for ADF&G conservation and management of the BSAI crab fisheries
2. **To provide information about the ownership of vessels and quota.**
3. A strong revenue based (Not economic rent based.) binding arbitration system.
4. A third party data-collection group (Such as Pacific States Marine Fisheries Commission.) to further enhance confidentiality.
5. An updated written agreement between the Council and all agencies it works with protecting the confidentiality of any proprietary information that we submit to that third party data-collection group.
6. For ADF&G, the same standards (and penalties) of confidentiality of information that NMFS employees are currently held to.

**ACC DRAFT RECOMMENDATIONS FOR THE
NPFMC DATA COLLECTION COMMITTEE**
September 3, 2002

CONCERNS AND RECOMMENDATIONS:

- The ACC references industry concerns about the level of detail that is being asked for in the surveys, conflicts with the MS Act in regards to the data requests, interagency agreements relative to confidentiality, the advantages of submitting data to a third party—preferably the PSMFC to protect confidentiality and other concerns including the need to restrict data collection to variable costs, as noted in the Data Collection Committee Minutes of August 20th, 2002. The ACC recommends these committee minutes be attached to the committee's formal submission to the NPFMC to provide background information on issues of concern to the crab industry.
- At the August 20th meeting the workgroup discussed whether information to estimate profits is needed or whether information used to estimate quasi-rents (revenue less variable costs) is adequate. Because of problems assigning fixed costs across the entire operation and the inaccuracies that could be introduced, it was felt that quasi-rents may be a better indicator of changes that take place in the crab fisheries.
- The ACC expects that ownership data that is requested for the crab fisheries will be similar to that which is required to monitor the consolidation rules in the other rationalized fisheries under the jurisdiction of the NPFMC, the halibut, sablefish and pollock fisheries.
- The current MOU allowing data sharing between the NMFS and the State of Alaska may not have adequate protections to ensure data confidentiality. NOAA GC has suggested that a review of the MOU is needed and that it should be incorporated in the new data collection effort; the ACC agrees that the review should be conducted immediately, with or without this data effort. The agencies must also develop internal protocol governing the access and use of data that is reviewed and approved by the Council.
- To provide additional protection for confidentiality of data to be collected, the ACC concurs with workgroup's interest and efforts to develop appropriate legislative language.
- With the above concerns in mind, the ACC recommends the Committee review the attached Crab Harvesting (Catcher) Vessel Variable Cost and Revenue Worksheet for submission to the NPFMC as a preferred alternative for data collection. Note that submission of data is proposed on a fishery-by-fishery seasonal basis, including provision of names, state of residence, and Social Security Numbers for crew men.

**DRAFT RECOMMENDATION FOR NPFMC DATA COLLECTION COMMITTEE,
SEPTEMBER 2, 2002
FOR PROPOSED SEASON BY SEASON REVENUE & VARIABLE COST REPORTING FOR
CRAB RATIONALIZATION PROGRAM**

**Crab Harvesting Vessel
Variable Cost and Revenue Worksheet**

(Recommended period for each BSAI Crab LLP fishery 1999 – 2001, and for future years to enable comparisons, open access vs. rationalization).

Vessel Name _____

Vessel Owner _____

ADF&G # _____ USCG # _____

Species (Check One) Opilio _____ Bristol Bay red king crab _____

Bairdi _____
Pribilofs red and blue king crab _____
St. Matthew blue king crab _____
Aleutians golden king crab _____

Year of Harvest _____ (one sheet for each season)

AFA qualified? Yes _____ No _____

Pounds Sold _____

Revenues _____ (total gross amount)

Variable Costs (See Notes Below For Definition):

Fuel, oil, hydraulic fluids _____

Insurance _____

Crew costs _____

Bait _____

Fisheries related taxes _____

Observer costs _____

Miscellaneous _____

NOTES:

INCLUDE VARIABLE COSTS ONLY. DO NOT INCLUDE ANY FIXED COSTS IN THE COST DATA.

Fuel should include fuel from the beginning of the voyage to its termination, regardless of the origination and destination port. It should be the same fuel expense used to calculate the net revenues for crew share calculation.

Insurance costs are included only if they are specifically for the crab fishery. If Hull and Machinery is paid on a year round basis, for example, do not include it. If it is bought month to month, and crab fishing is the only activity for the month, then include the cost. P&I should be reported here on the same basis as Hull and Machinery.

Crew costs should include crew share, airfares (if paid by the boat owner), food (if paid by the boat owner), and any gear provided for the crew (if paid by the boat owner). Also, provide names and Social Security Numbers for crew men on separate sheet.

Fisheries related taxes would be the line for any taxes deducted directly from the gross receipts of the vessel. Sales tax and ASMI tax are two examples.

Observer costs should include travel, insurance, food, etc, plus the cost of the observer.

Miscellaneous costs are any variable costs not captured by the specific categories listed. Examples might include port and harbor charges. Do not include pot storage costs, but do include the cost of transporting pots to and from storage for the season.

Crab Processors Positions Data Collection Committee

The crab processors believe the following data submissions are adequate to provide the information the Council needs to determine the efficacy of the Crab Rationalization program.

Ownership data: we believe that ownership data is appropriate to determine the degree of consolidation occurring in the processing sector and to determine the degree of vertical integration within the industry. The type of ownership data that we would expect to have to provide is similar to that which is required to monitor the consolidation rules in the halibut, sablefish and pollock fisheries.

Employment data: the processing sector is prepared to provide wage information for direct labor associated with each crab species, including SSN for each employee.

Revenue data: the processing sector is prepared to provide revenue information for each crab species, including sufficient data to state revenue on an FOB Alaska basis, production style and grade.

Cost data: the processing sector is prepared to provide the direct (variable) costs of production for each crab species. We do not believe that non-variable costs are needed and we believe that non-variable costs will necessarily be misunderstood due to the need to make subjective assumptions regarding the basis for allocating non-variable costs to various fishery activities.

See our attached draft "worksheet" setting out the specific information related to costs and revenues that we believe is appropriate.

General considerations:

Confidentiality of the data, particularly on an individual firm basis is a key concern of the processing sector. We would therefore ask that the following be considered:

- All data should be submitted to a third party entity (such as PSMFC). The data may then be made available to appropriate agencies on a blind basis. Although the processors prefer that the data be made available only in an aggregated format, we do agree that it is difficult to anticipate in what format or manner Council queries will require the data be presented. We would like to explore the feasibility of a third party providing blind data aggregated specifically on request of authorized agencies.
- The agencies must develop internal protocol governing the access and use of data that is reviewed and approved by the Council. This protocol must specify the types of data that may be accessed, the offices that will have access to the data, and whether that data may be available on an individual firm basis or not.
- The current MOU allowing data sharing between the National Marine Fisheries Service and the State of Alaska may not have adequate protections to ensure data confidentiality. Data supplied by the State of Alaska to NMFS is not necessarily subject to the confidentiality provisions of the State, and may be subject to disclosure under Federal law including FOIA requests or Federal Court Orders. Similarly, there appears to be inadequate control of access of federal data when transferred to State agencies. NOAA GC has suggested that a review of the MOU is needed and that it should be incorporated in the new data collection effort; we agree that the review is needed, with or without this data effort, and that it should be undertaken immediately.
- The National Marine Fisheries Service, Alaska Department of Fish and Game, and the Council must develop federal and state regulations governing access and use of data collected under the crab rationalization program. The objectives of the regulations should be to provide data to the

Council, NMFS, and state fish and game agencies for the purpose of analyzing the impacts of the program, and to ensure the confidentiality of the data collected. Those regulations should include the following points, at a minimum:

1. All data should be provided to a third party entity such as the Pacific States Marine Fishery Commission. The PSMFC shall provide data only to those agencies covered by the regulations either through direct application or through an MOU with NMFS. The data provided by the PSMFC shall be "blind" with no identification of the entities making submissions.
2. Data provided by the PSMFC shall be aggregated as directed by the Council (by sector, or by size categories, etc.).
3. Access to the data should be limited to those individuals specifically requested by the Council, NMFS or a state agency to undertake an analysis of the impacts of the crab rationalization program.
4. All individuals shall sign a confidentiality agreement before having access to the data. That agreement shall impose liability on an individual for breach of the agreement or regulations.
5. For data already supplied to the Council, NMFS, or a state agency, sharing of that data with another agency shall be subject to an MOU which imposes the requirements of these regulations, e.g. an individual confidentiality agreement.

The data collected should relate only to the crab fisheries included in the Council's crab rationalization motion. There is no justification to require the submission of data related to non-crab activities of the firms.

The data should be collected from individual firms only if it is not already available to agencies through some other means, including data that substantially fulfills the data requirement. As the Council motion stated, the data effort must be sensitive to the burden imposed on individual firms. Processors already routinely provide data on revenues, ex-vessel payments, employment and ownership, supplied to a variety of local, state and federal agencies. There should not be a duplication of that data collection effort already being made. A review should be undertaken to determine if the current data submissions are satisfactory for specific data requirements, and if not if they can be revised in some manner to be satisfactory. We are also concerned that the system of verification not be overly burdensome. Audit procedures similar to what is employed in the AFA are envisioned as appropriate for the data effort in the crab program.

Industry understands that there will be enforcement rules to ensure that data is supplied in an accurate and timely manner. The Council noted its concern that enforcement be sensitive to unintended errors in data submission, especially given the extent and complexity of the data industry is being required to submit compared to any other fishery under its jurisdiction. We are familiar with the enforcement system used in the halibut, blackcod and pollock fisheries. To the extent that this system is designed with the paramount need to enforce the harvest quotas, which is a resource conservation issue, the system of exacting time schedules and data accuracies are understood. The same principles do not necessarily apply though for the new types of data being required in the crab program. There are two aspects to this:

1. What is the consequence of unintended data submission errors.
2. When must the data be submitted.

Each of these factors should be analyzed in light of the specific data being required. By way of example:

Ownership data is needed to enforce caps. Caps are scrutinized annually and, presumably, at each transfer of quota. Ownership information should therefore be required annually, only, and upon any transfer of quota. Accuracy is critical to determining cap compliance, and therefore the enforcement standard may be higher than some other data requirements.

Revenue, ex-vessel payment, cost of production and employment data are the type of data that takes time to collect, internally verify and submit to the agency collecting it. Rigid, and "quick" time frames for

submission of this data are not needed for any Council purpose. As an example, for similar data submissions, the State of Alaska typically allows at least one month from the close out date to submit the data, up to three and one half months in the case of payment of the fisheries business taxes. Requiring data within three months of the close out date should be timely enough for any agency purposes and should give the processing firms an adequate period of time to compile and internally verify the information.

Similarly, for revenue, ex-vessel payment, cost of production and employment data are data summaries by firm that are built on a myriad of detail; unintended errors can and will occur. The enforcement approach with respect to this data should take this into consideration. First, as stated above, ample time following a close out period is essential for the firms involved. Second, failure to comply with a reasonable submission deadline should be treated completely differently than minor errors in the data that is submitted. The penalties, if any, should reflect the seriousness of the offense.

Processing Costs and Revenues Worksheet

Company Name _____
Production Facility Name _____
Species and Area _____
Year of Production _____
Location of production _____
Pounds Purchased _____
Finished Pounds _____
Revenues _____ (total dollars received)

Variable costs (see notes for definitions):

Payments to fishermen (including retros) _____

Taxes paid by processor for raw crab purchases _____

Custom processing fees you paid _____

Direct Labor costs _____

Observer costs (including transportation) _____

Utility costs (including fuel) _____

Housing, transportation and food _____

Packaging materials and supplies _____

Freight of production _____

Storage and handling of production _____

Cost of repacking _____

Brokers fees, promotional expenses _____

DO NOT INCLUDE ANY FIXED OR OVERHEAD COSTS IN THESE COST CATEGORIES.

Notes to Cost of Production Worksheet:

Variable costs are direct costs that vary with both season length and volume of production.

If you had product custom processed by another plant, include the revenues from the sale of production and report the custom processing fees you paid on the appropriate line.

If you custom processed product for someone else, exclude the variable costs and the revenues associated with that production.

Revenues should include all receipts from the sale of finished products, including products repacked by you or for your account after initial production. Revenues should be net of any brokerage fees paid to any independent broker making the sale on your behalf. If there is a broker's allowance or promotional fee that is deducted from your reported revenues, then you will need to enter that amount in the line asking for brokers fees or promotional expenses.

Direct labor costs EXCLUDES management or salaried labor, but includes all costs of processing labor, such as employer taxes, employer paid insurance, 401k contributions of employer in addition to the wages paid. The insurance costs should include any insurance related to direct labor; health (if any) insurance, worker's compensation or Jones Act coverage, including payment of deductibles or claims if self insured. Costs of training hourly workers should be included on this line item.

Utility costs include public or privately supplied utilities, including fuel, water, power, and sewer.

Housing, transportation and food category should include any expenses incurred for processing labor not listed in the labor category. It may include for example employer supplied special clothing and airfares.

Packaging materials and supplies should include fiber, banding materials, shrink-wrap, pallets, labels and anything else required to enclose and ship the finished product. This category should also report the cost of shipping packaging to the plant. Processing expendables of any sort are included in this category.

Freight of production. This should be zero if you reported sales on an FOB plant basis. If you reported sales from a different delivery point, the cost of freight and handling to that delivery point should be reported here. For example, sales that are FOB Seattle would include the freight from the plant to Seattle, and the cost of that freight would be reported on this line.

Storage and handling of production should include cold storage and handling costs incurred by you prior to sale.

Costs of repacking should include all charges associated with repacking crab that are sold by you after repacking. Brokers fees, promotional expenses that are paid as a deduction from the revenues reported in this worksheet should be included on this line item.

THIS WORKSHEET WOULD BE REVISED AFTER A REVIEW OF INFORMATION ALREADY AVAILABLE THROUGH OTHER DATA SOURCES.

John Garner noted after the meeting that their intent in providing the worksheet (*above*) was to restate what they thought were the costs that are variable by crab species." Mr. Garner also stated that if information on quantities or units of effort is needed to understand cost data, it would also be provided. If information on where money is spent is desired to assess community impacts, that would be provided. And finally, the processor's intent is to provide revenue information based on the format used in the survey developed Ron Felthoven, which has detailed information with respect to pack size, information needed to determine percentage of sales to related entities, and costs needed to derive an FOB Alaska wholesale value.

09-18-02

Shoreside Processor Survey

This survey is intended to gather information principally on BSAI crab operations (including CDQ fisheries). The definition of terms used in each question/category in the survey is included in an Appendix at the end of this document. Using the Appendix will help to improve the clarity of the both the questions and your responses. You can tear off these last few pages and use them as you proceed through the survey.

Person Completing the Survey

Name: _____

Title: _____

Telephone Number: _____ FAX _____

E-mail address: _____

Current Company and Plant Information

Plant Name: _____

Owner: _____

ADF&G processor ID: _____

Federal Plant ID: _____

Year Built: _____

Assessed Value (\$): _____

6.1 Plant-Specific BSAI Crab Costs Record the costs incurred for this plant only in the year's crab processing for each item in the TOTAL COST column.

COST CATEGORY	TOTAL COST
a. Total of fishery resource landing taxes, processing taxes, fisheries business taxes, borough and city taxes, where applicable (exclude property taxes)	\$
b. Fuel, electricity, lubrication, hydraulic fluids	\$
c. <u>Packaging materials and supplies</u>	
Location 1) City/Port and State: _____	\$
2) City/Port and State: _____	\$
3) City/Port and State: _____	\$
d. Other costs for direct crab labor (food and provisions, transportation and housing, P&I claims, benefits, recruitment, training and education)	\$
e. Re-packing costs	\$
f. <u>Broker fees and promotions for BSAI crab</u>	
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
g. <u>Observer costs</u>	
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
h. Freight	\$
i. Product storage, handling	\$
j. Water, sewer, waste and disposal	\$
k. Other crab-specific costs; specify: _____	\$

6.2 Plant-Specific Costs Record the annual costs for **this plant only** for each item in the TOTAL column. If the reported total should not be attributed solely to BSAI crab processing, please record the TOTAL and place an "X" in the "PRORATE OVER ALL ACTIVITIES?" column.

COST CATEGORY	TOTAL	PRORATE OVER ALL ACTIVITIES?
a. Insurance	\$	
b. Property taxes	\$	
c. Principal payments for plant and equipment	\$	
d. Interest payments for plant and equipment	\$	
e. <u>Capital improvements in plant and equipment</u>		
Location 1) City/Port and State: _____	\$	
2) City/Port and State: _____	\$	
3) City/Port and State: _____	\$	
f. Maintenance and repair for existing plant and equipment	\$	
g. Salaries for foremen, plant managers and other plant-level employees in support of crab processing that are not included in the direct labor costs reported in Section 2.1 NUMBER OF EMPLOYEES: _____	\$	
h. Other plant-specific costs; specify: _____	\$	

7. BSAI Crab Custom Processing Revenue

PRODUCT INFORMATION	REVENUE
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$

8. Labor Payment Details.

Approximately what percentage of total employee wages for BSAI crab processing were paid to persons who live in the following regions:

- a. Alaska _____ %
- b. Oregon _____ %
- c. Washington _____ %
- d. Another US state _____ %
- e. Foreign country _____ %

Appendix: Survey Question Details

- 1.** **SEASON:** record the name of one of the following management/quota areas: BS snow (opilio), Bristol Bay red king, Western AI brown, Eastern AI brown, Western AI red, BS Tanner (bairdi), Pribilof red and blue, St. Matthew blue.

OF CRAB PROCESSING DAYS: record the total number of days spent processing BSAI crab in each season.

SPECIES: record the name of each species processed during the season. If multiple species were processed, record each species on a separate line.

PRODUCT: record the name of each product produced from the reported species, by season. If multiple products were produced from a given species, record the total for each on a separate line.

SIZE/GRADE: record the size and grade of each product produced from the reported species, by season. If different sizes or grades of a product were produced in a season, record the total for each on a separate line.

BOX SIZE: record the box size associated with each product. If different box sizes were produced, record the total amount for each box size on separate lines.

RAW POUNDS: record the number of raw pounds used in processing the specified products.

FINISHED POUNDS: record the number of finished pounds produced for each specified product.

CUSTOM PROCESSED (Y OR N)?: record custom and non-custom processing activities on separate lines. If the recorded production was custom work, enter a "Y" – otherwise enter a "N".
- 2.1** **# OF CRAB POSITIONS:** record an estimate of the total number of employees engaged in, and in support of, crab processing in each 24 hour period, during each season. For example, if you typically had two shifts of 15 crab-designated laborers, you would record 30 crab positions.

TOTAL MAN-HOURS: record the sum of all hours worked by processing workers during the season.

TOTAL LABOR PAYMENT: record the total direct payment made to direct crab laborers. Exclude benefits and indirect expenses made on their behalf.
- 3.** **RAW POUNDS SUPPLIED:** record the number of raw pounds supplied to the custom processor for processing on your behalf.

FINISHED POUNDS: record the number of finished pounds of the specified product processed on your behalf.

PROCESSING FEE: record the total payment you made to custom processors for their BSAI crab processing services, by species and product.
- 4.** **GRADE/SIZE:** record the sizes/grades of the raw fish purchased each season, by species. If you purchased different sizes/grades of a particular species, record the total purchases for each on a separate line.

RAW POUNDS PURCHASED: record the total pounds of raw fish purchased in each season, by grade.

GROSS PAYMENT: record the total cost of the raw fish purchased in each season, by species and grade/size. Include any post-seasonal adjustments in the totals.
- 5.** **FINISHED POUNDS SOLD:** record the total pounds of each product sold in the year.

GROSS REVENUE (FOB ALASKA): record the total FOB Alaska revenue received for each product sold in the year.
- 6.1**

 - a. TOTAL OF FISHERY RESOURCE LANDING TAXES, FISHERIES BUSINESS TAXES, BOROUGH AND CITY TAXES, WHERE APPLICABLE:** the sum of all direct tax payments you made to a borough or the state of Alaska as a result of landing or processing BSAI crab for the year.
 - b. FUEL, ELECTRICITY, LUBRICATION & HYDRAULIC FLUIDS:** the total annual cost of fuel, electricity, lubrication & hydraulic fluids used in BSAI crab processing, by location.
 - c. PACKAGING MATERIALS & SUPPLIES:** the total cost of all materials used to package BSAI crab products processed by this plant.
 - d. OTHER COSTS FOR DIRECT CRAB LABOR (FOOD & PROVISIONS TRANSPORTATION AND HOUSING, P&I CLAIMS, BENEFITS, RECRUITMENT, TRAINING AND EDUCATION):** record the resulting costs for these items that were borne solely by you. For example, if labor was charged to offset the cost of certain items, do not include these costs.
 - e. RE-PACKING COSTS:** record the total cost of re-packing BSAI crab products processed by this plant.

6.1 (continued)

- f. BROKER FEES AND PROMOTIONS FOR BSAI CRAB SALES:** record the sum of all fees paid to brokers for sales and promotion of BSAI crab in the year.
- g. OBSERVER COSTS:** record all costs for having observers in your plant during BSAI crab processing.
- h. FREIGHT:** total expenses for having equipment/items used in this plant (for BSAI crab only) shipped and stored on your behalf. Do not include freight costs for product sales, as the sales revenues are to be reported on a FOB Alaska basis.
- i. PRODUCT STORAGE, HANDLING:** record the total amount paid to store and handle processed BSAI crab products during the year.
- k. OTHER CRAB-SPECIFIC COSTS; SPECIFY:** list the total cost of other expenditures incurred this year that were specific to BSAI crab processing not included in any of the other categories. Please specify the nature of the expense(s) and do not list costs to be recorded in Sections 6.2 or the costs of permits, licenses, or IFQ fees (these costs can be determined internally by state and federal agencies).

6.2

- a. INSURANCE:** the annual insurance premiums for this plant for the year.
- b. PROPERTY TAXES:** the sum of all property taxes levied on this plant for the year.
- c. PRINCIPAL PAYMENTS FOR PLANT & EQUIPMENT:** the total annual payments made for the year on the principal of outstanding debt related to this plant and its equipment.
- d. INTEREST PAYMENTS FOR PLANT & EQUIPMENT:** the total annual payments made for the year for interest on outstanding debt related to this plant and its equipment.
- e. CAPITAL IMPROVEMENTS IN PLANT AND EQUIPMENT:** the total annual capital expenditures on new equipment and improvements related to processing or storage, by location of purchase. Exclude standard repairs and purchases that are necessary to conduct operations.
- f. MAINTENANCE & REPAIR EXPENSES FOR EXISTING PLANT AND EQUIPMENT:** the total annual expenses for maintaining or repairing this plant and its equipment (exclude improvements) for the year.
- h. OTHER PLANT-SPECIFIC COSTS; SPECIFY:** list the total cost of all other plant-specific expenditures incurred this year that were not included in any of the other categories. Please specify the nature of the expense(s) and do not list costs recorded in Section 6.1.

09-18-02

Catcher-Processor Survey

This survey is intended to gather information principally on BSAI crab operations (including CDQ fisheries). The definition of terms used in each question/category in the survey is included in an Appendix at the end of this document. Using the Appendix will help to improve the clarity of the both the questions and your responses. You can tear off these last few pages and use them as you proceed through the survey.

Person Completing the Survey

Name: _____

Title: _____

Telephone Number: _____ FAX _____

E-mail address: _____

Vessel Information

Vessel name: _____

Owner: _____

USCG vessel ID: _____

ADF&G vessel ID: _____

Homeport: _____

2.1 BSAI Crab Labor Costs

Harvesting Labor: (if some employees harvest *and* process crab, include them in this section; include employees that are designated [and paid] as processing labor in the next section)

SEASON	# OF CREW EARNING SHARES	# OF THESE CREW THAT ALSO PROCESS CRAB	TOTAL CREW SHARE PAYMENT	TOTAL CREW SHARE PAYMENT MINUS CAPTAIN'S SHARE

SEASON	# OF CREW EARNING WAGES	# OF THESE CREW THAT ALSO PROCESS CRAB	TOTAL CREW WAGE PAYMENT

Processing Labor: (include information for workers that are designated as processing labor and are *not included above*)

SEASON	# OF EMPLOYEES WITH PAY DETERMINED BY PROCESSING WORK	# OF CRAB PROCESSING POSITIONS	TOTAL MAN-HOURS	TOTAL PROCESSING LABOR PAYMENT

6.1 Vessel-Specific BSAI Crab Costs Record the costs incurred for this vessel only for the year's crab harvesting and processing for each item in the TOTAL COST column.

COST CATEGORY	TOTAL COST
a. Insurance (hull, P&I and pollution)	
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
b. Total of fishery resource landing taxes, fisheries business taxes, processing taxes, borough and city taxes, where applicable	\$
c. Pot purchases	
City/Port and State: _____ Quantity _____	\$
City/Port and State: _____ Quantity _____	\$
City/Port and State: _____ Quantity _____	\$
d. Other crabbing gear and line purchases:	
City/Port and State: _____	\$
City/Port and State: _____	\$
City/Port and State: _____	\$
e. Bait	
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$

COST CATEGORY	TOTAL COST
f. <u>Fuel</u>	
Season: _____ City/Port: _____ Qty: _____	\$
Season: _____ City/Port: _____ Qty: _____	\$
Season: _____ City/Port: _____ Qty: _____	\$
Season: _____ City/Port: _____ Qty: _____	\$
Season: _____ City/Port: _____ Qty: _____	\$
Season: _____ City/Port: _____ Qty: _____	\$
Season: _____ City/Port: _____ Qty: _____	\$
Season: _____ City/Port: _____ Qty: _____	\$
g. <u>Lubrication and hydraulic fluids</u>	
Location: 1) City/Port: _____	\$
2) City/Port: _____	\$
3) City/Port: _____	\$
h. Other crew costs (food and provisions, transportation and housing, P&I claims, benefits, recruitment, training and education)	
i. <u>Packaging materials and supplies</u>	
Location 1) City/Port and State: _____	\$
2) City/Port and State: _____	\$
3) City/Port and State: _____	\$
j. Re-packing costs	\$
k. <u>Broker fees and promotions for BSAI crab sales</u>	
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
l. <u>Observer Costs</u>	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$

COST CATEGORY	TOTAL COST
m. Freight	\$
n. Product storage, handling	\$
o. Waste and disposal	
p. Other crab-specific costs; specify: _____	\$

6.2 Vessel-Specific Costs Record the annual costs for this vessel only for each item in the TOTAL column. If the reported total should not be attributed solely to BSAI crab, please record the TOTAL and place an "X" in the "PRORATE OVER ALL ACTIVITIES?" column.

COST CATEGORY	TOTAL	PRORATE OVER ALL ACTIVITIES?
a. Principal payments	\$	
b. Interest payments	\$	
c. <u>Capital improvements in vessel, gear and equipment</u>		
1) City/Port and State: _____	\$	
2) City/Port and State: _____	\$	
3) City/Port and State: _____	\$	
d. <u>Maintenance and repair expenses for vessel, gear and equipment</u>		
1) City/Port and State: _____	\$	
2) City/Port and State: _____	\$	
3) City/Port and State: _____	\$	
e. Salaries for foremen, managers and other vessel-level employees not included in direct labor costs reported in 2.1 # OF EMPLOYEES: _____	\$	
f. Other vessel-specific costs; specify _____	\$	

7. BSAI Crab Custom Processing Revenue

PRODUCT INFORMATION	REVENUE
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$

8. Labor Payment Details

8.1 Which of the following expenses were subtracted from total revenues (gross stock) before calculating the crew share? (Circle one number for each)

	DEDUCTED	NOT DEDUCTED
a. Fuel and lube _____	1	2
b. Food and provisions _____	1	2
c. Observer costs _____	1	2
d. Gear loss _____	1	2
e. Other (specify) _____	1	2

8.2 What percentage of the net share (gross stock minus the expenses indicated above in 8.1) went to:

a. Boat Share _____%

b. Crew Share (including skipper) _____%

8.3 Approximate the percentage of crew payments paid to persons who live in the following regions:

a. Alaska _____%

b. Oregon _____%

c. Washington _____%

d. Another US state..... _____%

e. Foreign country..... _____%

Appendix: Survey Question Details

1.1 SEASON: record the name of one of the following management/quota areas: BS snow (opilio), Bristol Bay red king, Western AI brown, Eastern AI brown, Western AI red, BS Tanner (bairdi), Pribilof red and blue, St. Matthew blue.

OF DAYS AT SEA: record the total number of days you spent at sea during the specified season.

AVERAGE CREW SIZE: record the average number of crewmembers onboard for each trip taken in each of the BSAI crab fisheries.

1.2 # OF CRAB PROCESSING DAYS: record the total number of days spent processing BSAI crab in each season.

SPECIES: record the name of each species processed during the season. If multiple species were processed, record each species on a separate line.

PRODUCT: record the name of each product produced from the reported species, by season. If multiple products were produced from a given species, record the total for each on a separate line.

SIZE/GRADE: record the size and grade of each product produced from the reported species, by season. If different sizes or grades of a product were produced in a season, record the total for each on a separate line.

BOX SIZE: record the box size associated with each product. If different box sizes were produced, record the total amount for each box size on separate lines.

RAW POUNDS: record the number of raw pounds used in processing the specified products.

FINISHED POUNDS: record the number of finished pounds produced for each specified product.

CUSTOM PROCESSED (Y OR N)?: record custom and non-custom processing activities on separate lines. If the recorded production was custom work, enter a "Y" – otherwise enter a "N."

- 2.1 # OF CREW EARNING SHARES**: record the number of crewmembers who were paid according to a share system (as opposed to an hourly, daily, or trip wage).
- TOTAL CREW SHARE PAYMENT**: record the total payment made to all crewmembers paid on the share system, including the captain. Do not include other crew-related expenses (such as benefits, food and provisions, etc.) in the payment columns.
- TOTAL CREW SHARE PAYMENT MINUS CAPTAIN'S SHARE**: subtract the captain's share payment off of the total share payment and record the value.
- # OF CREW EARNING WAGES**: record the number of crewmembers who were paid a wage (as opposed to a share system).
- TOTAL CREW WAGE PAYMENT**: record the total payment made to all wage-earning crewmembers. Do not include other crew-related expenses in the payment column.
- # OF EMPLOYEES WITH PAY DETERMINED BY PROCESSING WORK**: record the total number of employees whose pay was determined by their processing activities.
- # OF CRAB POSITIONS**: record an estimate of the total number of employees engaged in, and in support of, crab processing in each 24 hour period, during each season. For example, if you typically had two shifts of 15 crab-designated laborers, you would record 30 crab positions.
- TOTAL MAN-HOURS**: record the sum of all hours worked by processing workers during the season.
- TOTAL PROCESSING LABOR PAYMENT**: record the total direct payment made to direct crab laborers engaged in processing. Exclude benefits and indirect expenses made on their behalf.
- 3. RAW POUNDS SUPPLIED**: record the number of raw pounds supplied to the custom processor for processing on your behalf.
- FINISHED POUNDS**: record the number of finished pounds of the specified product processed on your behalf.
- PROCESSING FEE**: record the total payment you made to custom processors for their BSAI crab processing services, by species and product.
- 4. GRADE/SIZE**: record the sizes/grades of the raw fish purchased each season, by species. If you purchased different sizes/grades of a particular species, record the total purchases for each on a separate line.
- RAW POUNDS PURCHASED**: record the total pounds of raw crab purchased in each season, by grade.
- GROSS PAYMENT**: record the total cost of the raw crab purchased in each season, by species and grade/size. Include any post-seasonal adjustments in the totals.
- 5. FINISHED POUNDS**: record the total pounds of each product sold in the year.
- GROSS REVENUE (FOB ALASKA)**: record the total FOB Alaska revenue received for each product sold in the year.
- 6.1 a. INSURANCE (HULL, P&I AND POLLUTION)**: the annual insurance premiums for the year for this vessel, by crab season. If some insurance costs cannot be attributed to each crab season, enter these costs in Section 6.2.
- b. TOTAL OF FISHERY RESOURCE LANDING TAXES, FISHERIES BUSINESS TAXES, BOROUGH AND CITY TAXES, WHERE APPLICABLE**: the sum of all tax payments you made directly to a borough or the state of Alaska as a result of landing or processing BSAI crab for the year.
- c. POT PURCHASES**: the total quantity and cost of pots purchased for the year, by location of purchase.
- d. OTHER CRABBBING GEAR AND LINE PURCHASES**: the total expense on line, floats, and other fishing gear other than pots used in BSAI crab fishing, by location of purchase.
- e. BAIT**: the total quantity and cost of bait (by species) purchased in each season for the year, by location of purchase. If you caught a portion of your bait, do not list the location and estimate the cost of catching the bait, by species. If you received bait from a processor and this cost is already reflected in your reported catch revenues (i.e., you were paid less to reflect the bait given to you), do not record this as a bait cost here.
- f. FUEL**: the total quantity and cost of fuel used in crab fishing for the year, by location of purchase.
- g. LUBRICATION AND HYDRAULIC FLUIDS**: the total cost of lubrication & hydraulic fluids used in BSAI crab fisheries for the year.

6.1 (continued)

h. OTHER CREW COSTS (FOOD AND PROVISIONS TRANSPORTATION AND HOUSING, P&I CLAIMS, BENEFITS, RECRUITMENT, TRAINING AND EDUCATION): record the resulting costs for these items that were borne solely by you. For example, if labor was charged to offset the cost of certain items, do not include these costs.

i. PACKAGING MATERIALS & SUPPLIES: the total cost of all materials used to package BSAI crab products processed by this vessel.

j. RE-PACKING COSTS: record the total cost of re-packing BSAI crab products processed by this vessel.

k. BROKER FEES AND PROMOTIONS FOR BSAI CRAB SALES: record the sum of all fees paid to brokers for sales and promotion of BSAI crab in the year.

l. OBSERVER COSTS: record all costs for having observers on your vessel during BSAI crab processing.

m. FREIGHT: total expenses for having equipment/items used on this vessel (for BSAI crab only) shipped and stored on your behalf. Do not include freight costs for product sales, as the sales revenues are to be reported on a FOB Alaska basis.

n. PRODUCT STORAGE, HANDLING: record the total cost of storing processed BSAI crab products during the year.

p. OTHER CRAB-SPECIFIC COSTS; SPECIFY: list the total cost of other expenditures incurred this year that were specific to BSAI crab processing not included in any of the other categories. Please specify the nature of the expense(s) and do not list costs to be recorded in Section 6.2 or the costs of permits, licenses, or IFQ fees (these costs can be determined internally by state and federal agencies).

6.2 **a. PRINCIPAL PAYMENTS:** the total annual payment made this year on the principal for outstanding debt related to this vessel.

b. INTEREST PAYMENTS: the total interest expense paid this year on outstanding debt related to this vessel.

c. VESSEL AND GEAR IMPROVEMENTS: the total annual expenditure on new equipment related to fishing, by location of purchase. Include improvements but exclude standard repairs and purchases that are necessary to conduct fishing operations. Exclude the pot and crabbing gear and line purchases listed above.

d. VESSEL AND GEAR MAINTENANCE AND REPAIR EXPENSES: the total expenses for maintaining this vessel for fishing, and for repairing mechanical and physical problems with the vessel or equipment (exclude improvements).

f. OTHER VESSEL-SPECIFIC COSTS; SPECIFY: record any other vessel-specific cost(s) that was not included in the categories above and not reported in the crab season-specific table (Section 4.1), such as port and harbor charges, or other insurance expenses.

09-18-02
Catcher Vessel Survey

This survey is intended to gather information principally on BSAI crab operations (including CDQ fisheries). The definition of terms used in each question/category in the survey is included in an Appendix at the end of this document. Using the Appendix will help to improve the clarity of the both the questions and your responses. You can tear off these last few pages and use them as you proceed through the survey.

Person Completing the Survey

Name: _____
Title: _____
Telephone Number: _____ FAX _____
E-mail address: _____

Vessel Information

Vessel name: _____
Owner: _____
USCG vessel ID: _____
ADF&G vessel ID: _____
Homeport: _____

1. BSAI Crab Activity

SEASON	# OF DAYS AT SEA	AVERAGE CREW SIZE	# POTS LOST

2. BSAI Crab Ex-Vessel Revenues

SEASON	SPECIES	GRADE	SIZE	POUNDS SOLD	REVENUE

4.1 Vessel-Specific BSAI Crab Costs Record the costs incurred for this vessel only for the year's crab fisheries for each item in the TOTAL column.

COST CATEGORY	TOTAL
a. Insurance (hull, P&I and pollution)	
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
b. Pot purchases	
City/Port and State: _____ Quantity _____	\$
City/Port and State: _____ Quantity _____	\$
City/Port and State: _____ Quantity _____	\$
c. Other crabbing gear and line purchases:	
City/Port and State: _____	\$
City/Port and State: _____	\$
City/Port and State: _____	\$
d. Bait	
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Season: _____ City/Port: _____ Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$
Species: _____ Quantity: _____	\$

e. <u>Fuel</u>			
Season: _____	City/Port: _____	Qty: _____	\$
Season: _____	City/Port: _____	Qty: _____	\$
Season: _____	City/Port: _____	Qty: _____	\$
Season: _____	City/Port: _____	Qty: _____	\$
Season: _____	City/Port: _____	Qty: _____	\$
Season: _____	City/Port: _____	Qty: _____	\$
Season: _____	City/Port: _____	Qty: _____	\$
f. <u>Lubrication and hydraulic fluids</u>			
Location: 1) City/Port: _____			\$
2) City/Port: _____			\$
3) City/Port: _____			\$
g. Other crew costs (food and provisions, transportation and housing, P&I claims, benefits, recruitment, training and education)			\$
h. Freight			\$
i. <u>Observer Costs</u>			
Season: _____			\$
Season: _____			\$
Season: _____			\$
Season: _____			\$
Season: _____			\$
j. Other crab-specific costs; specify: _____			\$

4.2 Vessel-Specific Costs Record the annual costs for this vessel only for each item in the TOTAL column. If the reported total should not be attributed solely to BSAI crab operations, please record the TOTAL and place an "X" in the "PRORATE OVER ALL ACTIVITIES?" column.

COST CATEGORY	TOTAL	PRORATE OVER ALL ACTIVITIES?
a. Principal payments	\$	
b. Interest payments	\$	
c. <u>Capital improvements in vessel and gear</u>		
1) City/Port and State: _____	\$	
2) City/Port and State: _____	\$	
3) City/Port and State: _____	\$	

COST CATEGORY	TOTAL	PRORATE OVER ALL ACTIVITIES?
d. <u>Maintenance and repair expenses for vessel and gear</u>		
1) City/Port and State: _____	\$	
2) City/Port and State: _____	\$	
3) City/Port and State: _____	\$	
e. Other vessel-specific costs; specify: _____	\$	

5. BSAI Crab Crew Payment Details

5.1 Which of the following expenses were subtracted from total revenues (gross stock) before calculating the crew share? (Circle one number for each)

	DEDUCTED	NOT DEDUCTED
a. Fuel and lube _____	1	2
b. Food and provisions _____	1	2
c. Observer costs _____	1	2
d. Gear loss _____	1	2
e. Other (specify) _____	1	2

5.2 What percentage of the net share (gross stock minus the expenses indicated above in 5.1) went to:

a. Boat Share	_____ %
b. Crew Share (including skipper)	_____ %

5.3 Approximate the percentage of crew payments paid to persons who live in the following regions:

a. Alaska	_____ %
b. Oregon	_____ %
c. Washington	_____ %
d. Another US state.....	_____ %
e. Foreign country.....	_____ %

Appendix: Survey Question Details

- SEASON:** record the name of one of the following management/quota areas: BS snow (opilio), Bristol Bay red king, Western AI brown, Eastern AI brown, Western AI red, BS Tanner (bairdi), Pribilof red and blue, St. Matthew blue.

OF DAYS AT SEA: record the total number of days you spent at sea during the specified season.

AVERAGE CREW SIZE: record the average number of crewmembers onboard for each trip taken in each of the BSAI crab fisheries.
- GRADE:** record the grade of the crab caught during the season using one of the following grades: #1, #2, #3. If multiple grades were caught, record the information for each grade on separate lines.

REVENUE: record the total payment you received (less any taxes paid to the buyer) for each species and grade/size landed. Include any post-seasonal adjustments you received.

- 3.1** **# OF CREW EARNING SHARES:** record the number of crewmembers who were paid according to a share system (as opposed to an hourly, daily, or trip wage).
- TOTAL CREW SHARE PAYMENT:** record the total payment made to all crewmembers paid on the share system, including the captain. Do not include other crew-related expenses (such as benefits, food and provisions, etc.) in the payment columns.
- TOTAL CREW SHARE PAYMENT MINUS CAPTAIN'S SHARE:** subtract the captain's share payment off of the total share payment and record this value.
- # OF CREW EARNING WAGES:** record the number of crewmembers who were paid a wage (as opposed to a share system).
- TOTAL CREW WAGE PAYMENT:** record the total payment made to all wage-earning crewmembers. Do not include other crew-related expenses in the payment column.
- 4.1**
- a. INSURANCE (HULL, P&I AND POLLUTION):** the annual insurance premiums for this vessel for the year, by crab season. If some insurance costs cannot be attributed to each crab season, enter these costs in Section 4.2.a.
- b. POT PURCHASES:** the total quantity and cost of pots purchased for the year, by location of purchase.
- c. OTHER CRABBING GEAR AND LINE PURCHASES:** the total expense on line, floats, and other fishing gear other than pots used in BSAI crab fishing, by location of purchase.
- d. BAIT:** the total quantity and cost of bait (by species) purchased in each season for the year, by location of purchase. If you caught a portion of your bait, do not list the location and estimate the cost of catching the bait, by species. If you received bait from a processor and this cost is already reflected in your reported catch revenues (i.e., you were paid less to reflect the bait given to you), do not record this as a bait cost here.
- e. FUEL:** the total quantity and cost of fuel used in crab fishing in each season, by location of purchase.
- f. LUBRICATION AND HYDRAULIC FLUIDS:** the total cost of lubrication & hydraulic fluids used in BSAI crab fisheries for the year.
- g. OTHER CREW COSTS (FOOD AND PROVISIONS TRANSPORTATION AND HOUSING, P&I CLAIMS, BENEFITS, RECRUITMENT, TRAINING AND EDUCATION):** record the resulting costs for these items that were borne solely by you. For example, if crew was charged to offset the cost of certain items, do not include these costs here.
- h. FREIGHT:** total expenses for having equipment/items used on this vessel (for BSAI crab only) shipped and stored on your behalf.
- i. OBSERVER COSTS:** record the sum of all expenditures incurred as a result of having observers onboard in each BSAI crab season for the year.
- j. OTHER CRAB-SPECIFIC COSTS; SPECIFY:** other costs specific to BSAI crab harvesting that are not included in the categories above (such as crab gear storage and transport expenses). Please specify the nature of the expense(s) and do not list costs to be recorded in Section 4.2 or the costs of permits, licenses, or IFQ fees (these costs can be determined internally by state and federal agencies).
- 4.2**
- a. PRINCIPAL PAYMENTS:** the total annual payment made this year on the principal for outstanding debt related to this vessel.
- b. INTEREST PAYMENTS:** the total interest expense paid this year on outstanding debt related to this vessel.
- c. CAPITAL IMPROVEMENTS IN VESSEL AND GEAR:** the total annual expenditure on new equipment related to fishing, by location of purchase. Include improvements but exclude standard repairs and purchases that are necessary to conduct fishing operations. Exclude the pot and crabbing gear and line purchases listed above.
- d. MAINTENANCE AND REPAIR EXPENSES FOR VESSEL AND GEAR:** the total expenses for maintaining this vessel and repairing mechanical and physical problems with the vessel or (exclude improvements).
- e. OTHER VESSEL-SPECIFIC COSTS; SPECIFY:** record any other vessel-specific cost(s) that was not included in the categories above and not reported in the crab season-specific table (Section 4.1), such as port and harbor charges, or other insurance expenses. Please specify the nature of the expense(s) and do not list costs of permits, licenses, or IFQ fees (these costs can be determined internally by state and federal agencies).

09-18-02

Floating Processor Survey

This survey is intended to gather information principally on BSAI crab operations (including CDQ fisheries). The definition of terms used in each question/category in the survey is included in an Appendix at the end of this document. Using the Appendix will help to improve the clarity of the both the questions and your responses. You can tear off these last few pages and use them as you proceed through the survey.

Person Completing the Survey

Name: _____

Title: _____

Telephone Number: _____ FAX _____

E-mail address: _____

Plant Information

Plant name: _____

Owner: _____

USCG vessel ID: _____

ADF&G vessel ID: _____

6.1 Plant-Specific BSAI Crab Costs Record the costs incurred for this plant only in the year's crab harvesting and processing for each item in the TOTAL COST column.

COST CATEGORY	TOTAL COST
a. Total of fishery resource landing taxes, fisheries business taxes, processing taxes, borough and city taxes, where applicable	\$
b. Fuel, electricity, lubrication, hydraulic fluids	\$
c. Packaging materials and supplies	
Location 1) City/Port and State: _____	\$
2) City/Port and State: _____	\$
3) City/Port and State: _____	\$
d. Other crew costs (food and provisions, transportation and housing, P&I claims, benefits, recruitment, training and education)	\$
e. Re-packing costs	\$
f. Broker fees and promotions for BSAI crab sales	
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
Season: _____ Species: _____	\$
g. Observer Costs	
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
Season: _____	\$
h. Freight	\$
i. Product storage, handling	\$
j. Waste and disposal	\$
k. Other crab-specific costs; specify: _____	\$

6.2 Vessel-Specific Costs Record the annual costs for **this vessel only** for each item in the TOTAL column. If the reported total should not be attributed solely to BSAI crab, please record the TOTAL and place an "X" in the "PRORATE OVER ALL ACTIVITIES?" column.

COST CATEGORY	TOTAL	PRORATE OVER ALL ACTIVITIES?
a. Insurance	\$	
b. Principal payments	\$	
c. Interest payments	\$	
d. <u>Capital improvements in vessel, gear and equipment</u>		
1) City/Port and State: _____	\$	
2) City/Port and State: _____	\$	
3) City/Port and State: _____	\$	
e. Maintenance and repair expenses for vessel, gear and equipment	\$	
f. Salaries for foremen, managers and other vessel-level employees not included in direct labor costs reported in 2.1 # OF EMPLOYEES: _____	\$	
g. Other vessel-specific costs; specify _____	\$	

7. BSAI Crab Custom Processing Revenue

PRODUCT INFORMATION	REVENUE
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$
Species: _____ Product Form: _____	\$

8. Labor Payment Details

Approximately what percentage of total employee wages for BSAI crab processing were paid to persons who live in the following regions:

- a. Alaska _____ %
- b. Oregon _____ %
- c. Washington _____ %
- d. Another US state _____ %
- e. Foreign country _____ %

Appendix: Survey Question Details

- 1. SEASON:** record the name of one of the following management/quota areas: BS snow (opilio), Bristol Bay red king, Western AI brown, Eastern AI brown, Western AI red, BS Tanner (bairdi), Pribilof red and blue, St. Matthew blue.

OF CRAB PROCESSING DAYS: record the total number of days spent processing BSAI crab in each season.

SPECIES: record the name of each species processed during the season. If multiple species were processed, record each species on a separate line.

PRODUCT: record the name of each product produced from the reported species, by season. If multiple products were produced from a given species, record the total for each on a separate line.

SIZE/GRADE: record the size and grade of each product produced from the reported species, by season. If different sizes or grades of a product were produced in a season, record the total for each on a separate line.

BOX SIZE: record the box size associated with each product. If different box sizes were produced, record the total amount for each box size on separate lines.

RAW POUNDS: record the number of raw pounds used in processing the specified products.

FINISHED POUNDS: record the number of finished pounds produced for each specified product.

CUSTOM PROCESSED (Y OR N)?: record custom and non-custom processing activities on separate lines. If the recorded production was custom work, enter a "Y" – otherwise enter a "N".
- 2.1 # OF CRAB POSITIONS:** record an estimate of the total number of employees engaged in, and in support of, crab processing in each 24 hour period, during each season. For example, if you typically had two shifts of 15 crab-designated laborers, you would record 30 crab positions.

TOTAL MAN-HOURS: record the sum of all hours worked by processing workers during the season.

TOTAL LABOR PAYMENT: record the total direct payment made to direct crab laborers. Exclude benefits and indirect expenses made on their behalf.
- 3. RAW POUNDS SUPPLIED:** record the number of raw pounds supplied to the custom processor for processing on your behalf.

FINISHED POUNDS: record the number of finished pounds of the specified product processed on your behalf.

PROCESSING FEE: record the total payment you made to custom processors for their BSAI crab processing services, by species and product.
- 4. GRADE/SIZE:** record the sizes/grades of the raw fish purchased each season, by species. If you purchased different sizes/grades of a particular species, record the total purchases for each on a separate line.

RAW POUNDS PURCHASED: record the total pounds of raw fish purchased in each season, by grade.

GROSS PAYMENT: record the total cost of the raw fish purchased in each season, by species and grade/size. Include any post-seasonal adjustments in the totals.
- 5. FINISHED POUNDS SOLD:** record the total pounds of each product sold in the year.

GROSS REVENUE (FOB ALASKA): record the total FOB Alaska revenue received for each product sold in the year.
- 6.1 a. TOTAL OF FISHERY RESOURCE LANDING TAXES, FISHERIES BUSINESS TAXES, BOROUGH AND CITY TAXES, WHERE APPLICABLE:** the sum of all direct tax payments you made to a borough or the state of Alaska as a result of landing or processing BSAI crab for the year.

b. FUEL, ELECTRICITY, LUBRICATION & HYDRAULIC FLUIDS: the total annual cost of fuel, electricity, lubrication & hydraulic fluids used in BSAI crab processing, by location.

c. PACKAGING MATERIALS & SUPPLIES: the total cost of all materials used to package BSAI crab products processed by this plant.

d. OTHER COSTS FOR DIRECT CRAB LABOR (FOOD & PROVISIONS TRANSPORTATION AND HOUSING, P&I CLAIMS, BENEFITS, RECRUITMENT, TRAINING AND EDUCATION): record the resulting costs for these items that were borne solely by you. For example, if labor was charged to offset the cost of certain items, do not include these costs.

e. RE-PACKING COSTS: record the total cost of re-packing BSAI crab products processed by this plant.

6.1 (continued)

f. BROKER FEES AND PROMOTIONS FOR BSAI CRAB SALES: record the sum of all fees paid to brokers for sales and promotion of BSAI crab in the year.

g. OBSERVER COSTS: record all costs for having observers in your plant during BSAI crab processing.

h. FREIGHT: total expenses for having equipment/items used in this plant (for BSAI crab only) shipped and stored on your behalf. Do not include freight costs for product sales, as the sales revenues are to be reported on a FOB Alaska basis.

i. PRODUCT STORAGE, HANDLING: record the total amount paid to store and handle processed BSAI crab products during the year.

k. OTHER CRAB-SPECIFIC COSTS; SPECIFY: list the total cost of other expenditures incurred this year that were specific to BSAI crab processing not included in any of the other categories. Please specify the nature of the expense(s) and do not list costs to be recorded in Sections 6.2 or the costs of permits, licenses, or IFQ fees (these costs can be determined internally by state and federal agencies).

- 6.2**
- a. INSURANCE:** the annual insurance premiums for this plant for the year.
- b. PRINCIPAL PAYMENTS FOR PLANT & EQUIPMENT:** the total annual payments made for the year on the principal of outstanding debt related to this plant and its equipment.
- c. INTEREST PAYMENTS FOR PLANT & EQUIPMENT:** the total annual payments made for the year for interest on outstanding debt related to this plant and its equipment.
- d. CAPITAL IMPROVEMENTS IN PLANT AND EQUIPMENT:** the total annual capital expenditures on new equipment and improvements related to processing or storage, by location of purchase. Exclude standard repairs and purchases that are necessary to conduct operations.
- e. MAINTENANCE & REPAIR EXPENSES FOR EXISTING PLANT AND EQUIPMENT:** the total annual expenses for maintaining or repairing this plant and its equipment (exclude improvements) for the year.
- g. OTHER PLANT-SPECIFIC COSTS; SPECIFY:** list the total cost of all other plant-specific expenditures incurred this year that were not included in any of the other categories. Please specify the nature of the expense(s) and do not list costs recorded in Section 6.1.


Alaska Crab Coalition

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RECEIVED
SEP 24 2002
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DATE: September 24, 2002

TO: David Benton, Chairman
North Pacific Fishery Management Council
Anchorage, Alaska

FROM: Arni Thomson, Executive Director 

RE: AGENDA ITEM C-1(c) TRAILING AMENDMENTS
CRAB SKIPPER ALLOCATION RECOMMENDATIONS

The Captains Quota Share Committee has met twice this summer and completed its tasks, and voted unanimous on its recommendations. Of particular interest to ACC vessel owners, are three major committee recommendations:

1. The initial allocation of 3% would be set aside from the total QS pool for allocation to qualified captains as C shares (rather than allocated individually from a vessel's catch history, on a vessel by vessel basis). This seems to be not only a fair and equitable approach to the allocation, but it also simplifies administration of the program. As the analysis already notes, first, this allocation would distribute the burden of C shares equally among all vessel owners. Allocation on a vessel basis would not be distributed equally among all vessel owners but would burden vessel owners that maintained a single captain during the qualifying period the most. In addition, if the Council's intention is to allocate 3 per cent of the QS pool to captains taking that allocation from the QS pool directly is a more direct approach to making the allocation.
2. C shares shall be a separate class of shares and not be subject to Class A share delivery requirements. Also, this allocation shall be made off the top and shall not affect the Class A/Class B share split for harvest shares. C shares shall not be subject to regional designations. (Skippers are recommending that C shares be open access shares and that this allocation should not affect the A/B share split of vessel owners.) As the analysis notes, imposing A/B share classifications and regionalization on C shares will create mismatches with vessel owners QS and could result in forcing skippers to divest of their shares. Requiring A/B share and regionalization designations to skipper shares will also overly complicate the operation of the program, as there are going to be more than 200 eligible skippers

in the program. Skippers are in many cases, independent contractors. Skipper histories will oftentimes conflict with vessel designations.

Another benefit of allowing C shares to be open access shares will be to improve overall price negotiation leverage for fishermen, as there will be a 3 per cent increase in open access shares.

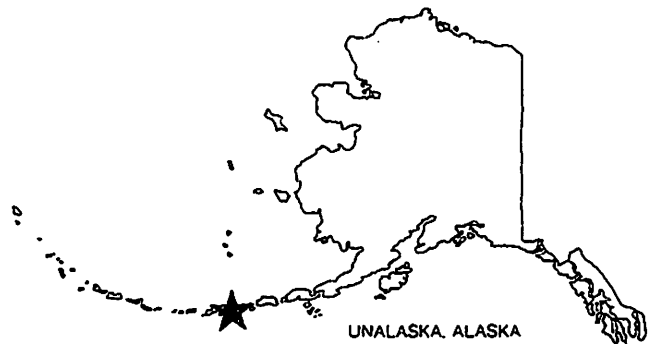
3. A recommendation supporting the binding arbitration program and the inclusion of skippers in the binding arbitration process.

As a matter of practicality, skippers and vessel owners present at committee meetings agreed that the skipper shares, even without A/B and regionalization designations would follow the vessel in its delivery patterns and it is therefore unlikely the open access nature of the QS will negatively affect a region's overall percentage of the TAC in deliveries.

Given the obvious benefits to price negotiations and for simplifying administration of the skipper allocations, the ACC is endorsing C shares coming off the top of the QS pool and that they be designated as open access shares.

CITY OF UNALASKA

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September 23, 2002

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Ave, Suite 306
Anchorage, Alaska 99501

Subject: Comments on Crab Rationalization Trailing Amendments Community Protection

Chairman Benton,

The City of Unalaska has the following comments on C-1 Crab Management Trailing Amendments Community Protection Options.

Section # Option Comment

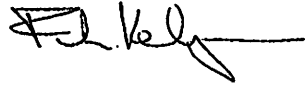
3.6.2 Alternative Regionalization/ Community Protection Option: The City of Unalaska supports alternative one; this option surely gives a community protection inside their region, we feel this is very important for the protection of the local processing history. And this is especially important in the southern region where you have many more communities involved in crab processing than in the northern region. We feel alternative two would be totally ineffective in protecting Unalaska processing history and could cause great harm to the community.

Section # Option Comments

3.6.3 Right of First Refusal for CDO Groups and Community Organizations: The City of Unalaska would like to see the language for the Bering Sea section changed to the same language as the section reads for the Gulf of Alaska. The reason being Unalaska is not a CDQ community and the language for the Bering Sea excludes community organizations from being involved in the first right of refusal for the purchase of IPQ's. The language if not changed treats a non-CDQ community such as Unalaska unfairly and could impact our local processing plants, community and we could see the movement of IPQ's from the community with no way to stop it.

**This concludes the City of Unalaska comments on C-1 Crab Rationalization Trailing
Amendments Community Protection Measures**

Sincerely

A handwritten signature in black ink, appearing to read 'F. Keity', with a long horizontal line extending to the right.

**Frank Keity
Resource Analyst
City of Unalaska**