


# Public Testimony Sign-Up Sheet

Agenda Item C-3 (c) BSAI 'C' SHARE 90/10 EXEMPT.

	NAME (PLEASE PRINT)	AFFILIATION
1	Tim Henkel	Deep Sea Fisherman's Union
2	Steve Minor	NPLA
3	KEITH COLBURN	S.E.A. FN WIZARD
4	Stephen Tanken	Groundswell Fisheries Movement
5	Florence Colburn	Crab group Indop. Harvestors
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council, SSC and AP Members  
FROM: Chris Oliver   
Executive Director  
DATE: September 24, 2007  
SUBJECT: BSAI Crab Fishery Management

ESTIMATED TIME 10 HOURS (all C-3 items)
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**ACTION REQUIRED**

Initial review of analysis.

**BACKGROUND**

(c) C share 90/10 exemption

The crab rationalization program is unique in several ways, including the allocation of a portion of the harvest share pool to captains for exclusive use by captains and crew (C shares), the allocation of processing shares corresponding to a portion of the harvest share pool, and the designation of certain harvest shares for landing in a specific region. At the time it adopted the rationalization program, the Council exempted C shares from the regional and processing share landing requirements for the first three years of the program. This exemption is scheduled to expire at the beginning of the 2008-2009 fishing season. When the Council adopted the rationalization program, it also tasked staff to provide a review of landing patterns of C shares to assess whether the exemption should be extended indefinitely. At its March/April 2007 meeting, staff delivered that review to the Council and the Council elected to task staff to prepare an analysis of an action to extend the exemption of C shares from regional and processor share landing requirements indefinitely. At its June 2007 meeting, the Council approved a draft purpose and need statement and alternative to indefinitely exempt C shares from the 90/10 A share/B share split.

In advance of this meeting, staff completed a draft of that analysis. At this meeting the Council is requested to decide whether the analysis is sufficient to be released for public review. An executive summary of the analysis follows.

**Executive Summary**

In August of 2005, fishing in the Bering Sea and Aleutian Island crab fisheries began under a new share-based management program (the "rationalization program"). The program is unique in several ways, including the allocation of a portion of the harvest share pool to captains for exclusive use by captains and crew (C shares), the allocation of processing shares corresponding to a portion of the harvest share pool, and the designation of certain harvest shares for landing in a specific region. Under the program, 90 percent of the annual harvest share allocation is issued as "Class A" individual fishing quota (IFQ), which must be delivered in a designated region and may only be delivered to a processor holding unused individual processing quota (IPQ). Under the rationalization program, the Council exempted C shares from the regional and processing share landing requirements for the first three years of the program. This exemption is scheduled to expire at the beginning of

the 2008-2009 fishing season. When the Council adopted the rationalization program, it also tasked staff to provide a review of landing patterns of C shares to assess whether the exemption should be extended indefinitely. At its March/April 2007 meeting, staff delivered that review to the Council and the Council elected to task staff to prepare an analysis of an action to extend the exemption of C shares from regional and processor share landing requirements indefinitely.

### **Purpose and need statement**

The Council has adopted the following the Purpose and Need Statement for this action:

*In the crab rationalization program, the Council created a C share pool (comprised of three percent of the total harvest share pool) intended to benefit captains and crew active in the fishery. To provide stability to processors and regions that support crab processing, the Council also created processor share and regional landing requirements applicable catch landed using harvest shares under the program. For the first three years of the program, the Council elected to exempt C shares from any processor share or regional landing requirements to allow time for C share holders to adapt to the new management. The Council also stated its intent to review the application of processor share and regional landing requirements to C shares after 18 months of fishing under the program to determine whether application of those landing requirements to 90 percent of the C share allocation would be appropriate. The application of processor share and regional landing restrictions could greatly complicate use of C shares and could severely diminish the value of these shares to their holders. The value of C shares could also be diminished by their inclusion in the arbitration program, which is necessitated by the application of processor share landing requirements. To allow C share holders to receive maximum benefit of those shares, the exemption of those shares from processor share and regional landing requirements should be considered.*

### **Alternatives**

**Alternative 1:** Status quo – After 3 years of fishing under the rationalization program, C shares would be subject to the 90/10 A share/B share split, with A shares subject to regional and processing share landing requirements.

**Alternative 2:** C shares are indefinitely exempt from the 90/10 A share/B share split, with all C shares exempt from regional and processing share landing requirements.

### **Effects of alternative 1 (the status quo)**

In general, the application of A share/B share split to C shares will logistically complicate use of those shares. In the first two years of the program, many harvesters have asserted that logistical demands in the fisheries are greatly increased by the complications of coordinating landings of A shares under the processor share and regional landing requirements. Under this system, any individual C share IFQ holders (who are not cooperative members) would be forced to compete for landing positions with holders of catch vessel owner shares, who are likely in a much better negotiating position with respect to processors because of their relatively large share holdings (i.e., vessel owner shares are allocated for 97 percent of the harvest share pool). While individual C share IFQ holders are likely to be disadvantaged in the Class A IFQ/IPQ share matching process, most C share holders have elected to join cooperatives pooling their C share holdings with holders of shares in the larger vessel owner pool, allowing their negotiations and harvesting activities to be coordinated. Since approximately 90 percent of the annual IFQ allocation to C share holders would be Class A IFQ, holders of C shares will be required to join an arbitration organization and participate in certain aspects of the arbitration program. In addition to the administrative aspects of the arbitration system, C share holders may also have costs related to their participation in the adversarial aspects of the system. These costs can be incurred either individually or through collective action with other Class A IFQ holders.

Since C shares are a relatively small portion of the overall harvest allocations, the effects of this action on



processors and communities would be relatively small. The application of landing restrictions to 90 percent of the annual C share IFQ allocation under this alternative will have competing effects on the processing sector. Processors that wish to compete for additional landings of shares unrestricted by IPQ and regional landing limitations will have fewer landings to compete for. On the other hand, IPQ holding processors will each have a marginally larger amount of constrained landings available due to the application of the A share landing limitations to 90 percent of the 3 percent C share allocation. The market advantage of this small amount of landings (less than 3 percent of the catcher vessel pool) is likely to be relatively minor. Based on the most recent TACs, relatively few additional pounds of IPQ issued to correspond to the additional A share issuance would be constrained by the rights of first refusal of communities. The largest amount of pounds that would be subject to the right of first refusal limitations for a single community in a fishery would be approximately 300,000 pounds of Bering Sea *C. opilio* (or slightly less than one one-hundredth of the total allocation in the fishery), which would be subject to IPQ landing requirements and the associated right of first refusal in St. Paul.

Application of the 90/10 A share/B share split to C shares will add IPQ and regional landing requirements to a portion of each of the C share IFQ allocation. Although tracking compliance with these landing requirements may seem to complicate management, the overall effect will be rather minor, since C shares are a small portion of the total IFQ allocation in the fisheries and a large portion of all IFQ will require tracking regardless of this action.

#### **Effects of Alternative 2(exempt C share from the A share/B share split)**

The exemption of C shares from the processor share and regional landing requirements applicable to Class A IFQ will ease the limitations on the use of these shares substantially. C share holders will be exempt from the share matching process that begins just before the season opening. Exemption from this process will particularly benefit individual C share holders, who face potential pressures from competition with catcher vessel owner Class A IFQ for share matches. The use of C shares is likely to closely resemble the use of vessel B shares, if the 90/10 Class A IFQ/Class B IFQ split is not applied to C share holdings. Ex vessel prices and royalties for these shares are also likely to be similar to those prices and royalties for vessel owner B shares. To the extent that C shares are used to relieve coordination burdens arising from address contingencies that complicate matching A shares and IPQ, the benefit of C shares to their holders is likely to be diminished. This coordination burden is likely to be relatively similar to the burden on the B shares arising from the same circumstances. Most C share holders are likely to continue to join cooperatives, as the benefits of cooperative coordination of share harvests (including the ease of movement of shares within the cooperative) are likely to outweigh the costs of membership. Costs of arbitration, including both costs of arbitration organizations and costs of participation in the adversarial aspects of arbitration, will be avoided for C share holdings, which should increase the value of these shares to their holders.

The effects of this alternative on the processing sector and communities are likely to be limited by the small magnitude of the C share allocation. Removing of IPQ landing requirements from C shares should increase the pool of shares available in the competitive market to both non-IPQ holders and IPQ holders that wish to compete for those deliveries. Although some C share landings are likely to go to the highest paying markets, if free from landing constraints, the overall effect of this alternative on communities is likely to be relatively weak for two reasons. First, several factors (in addition to price) affect landing patterns. In the first two years of the program, participants have chosen to distribute landings of B and C shares to achieve operational efficiencies and coordination in matching A shares to IPQ. These factors will likely continue to affect landing patterns in the future. Second, C shares are a small portion of the allocation in the fisheries, limiting any affect on the distribution of landings that arises from removing landing limitations on communities.

The effect of exemption C shares from the 90/10 A share/B share split on management and enforcement will be very minor. Although this alternative will reduce the number of shares subject to landings constraints, the management and enforcement burden is likely to be unchanged.

#### **Net benefits to the Nation**

This action is likely to have little or no effect on net benefits to the Nation. Although the allocation of unrestricted shares to C share QS holders will allow some additional IFQ to be used for any purpose identified by their holders, the shares are unlikely to result in any change in production by either harvesters or processors.

**Effects on small entities**

Application of the landing restrictions under the status quo alternative will reduce the value of C shares to small entities holding those shares. The loss to small entities under this alternative is likely to be limited by the tendency of C share holders to use their share allocations in cooperative, which overcomes much of the coordination problem. Small entities holding C shares are likely to benefit from the indefinite exemption of their C share allocations from the IPQ and regional landing requirements by Alternative 2. Removal of these limitations will allow C share holders to receive greater value from their shares in the market.

The status quo alternative will have minor, competing effects on small processors that holder processor shares. These entities will receive a slight benefit from the slightly larger allocations of IPQ under this alternative, increasing the portion of the harvest share pool that must be delivered to their plants. To the extent that these entities wish to compete for a larger share of landings by competing for deliveries made with unconstrained shares, these small entities will have a smaller pool of landings from the unconstrained shares to compete for. For small entities with very small amounts of IPQ, the application of the landing constraints under the status quo alternative could be detrimental overall because of the relatively small allocation of IPQ is more that offset by the cost of being unable to compete for a larger pool of unconstrained shares.

AGENDA C-3(c)  
Supplemental  
OCTOBER 2007

September 25, 2007

John Bundy, Vice Chair/Acting Chair  
North Pacific Fisheries Management Council  
605 W 4<sup>th</sup> Avenue Suite 306  
Anchorage, AK 99501-2252

Subject: Initial Review BSAI Crab 'C' share

Dear Mr Bundy:

My name is Oystein Lone. I am a commercial fisherman that was allocated original BSAI shares. I have been a commercial fisherman for over 23 years in the Bearing Sea fishing salmon/herring, crab, halibut, sablefish & cod. Just about any kind of fish that has been hauled over the rail I have been doing it. Since I have a vested interest in this program I would like to be apart of how the 3 year review goes & also voice my opinions on the subject.

I am writing to urge you to move forward on the C-3 BSAI Crab Fishery Management 'C' share issues that you will discuss at the October Meeting.

As the crab fleet continues to consolidate we have to look not only at the C share program as it stands today, but also how it will affect the fishery and crewmen in the future.

I urge the council to go forward with 90/10 exemption. Due to the small amounts of quota allocated it doesn't make sense to tie them to the Processors. This will devalue the shares even more than they are now. The C shares need to be mobile and have the ability to move around from boat to boat. Captains need to be allowed to find a boat to operate. For example, the last 3 boats I ran as Captain are no longer in the fishery. It is even more imperative a deckhand shares not be tied to a processor since he is even more mobile than a captain. If tied to a process his choice of boats are even further limited and the value of his shares are decreased. This is why we need an exemption from the 90/10 split.

The owner onboard stipulation that is coming into place next year needs to be looked at as well. It is my opinion another 3-year extension is needed at this time until 2011. Due to the ongoing consolidation of the crab fleet some captains will not be able to find vessels to fish their quotas on. A three year extension will give more time for this to balance out. Without the extension, quotas will lose value. At a future date there needs to be an owner onboard stipulation where one trip per year is mandatory to make. If another three years is granted this will enable the captains and crew that have left the fishery to exit gracefully, and sell their quotas for fair price. Another way to look at this could be when the Loan Program is activated a 3-year sunset could be put into place regarding owners onboard.

I urge the Council to give serious considerations to the C share program and give it more time to come into its own.

Sincerely,

Oystein Lone

**Skippers for Equitable Access**

101 Nickerson Suite 340  
Seattle, Wa. 98109

September 24, 2003

John Bundy  
Acting Chair  
North Pacific Fishery Management Council  
605 W 4<sup>th</sup> Avenue  
Anchorage, AK. 99510

RECEIVED  
SEP 24 2007

Dear Mr. Bundy,

I am writing you on the behalf of Skippers for Equitable Access to endorse the staff analysis of "A provision exempting C shares from processor share and regional landing requirements". We feel that this is a fair and comprehensive discussion of the issues surrounding this issue and therefore SEA urges the Council to move this portion of the 18 month review of C shares to the December '07 Council meeting for final action.

Unfortunately due to our participation in the current pot cod fishery and the upcoming BBRKC fishery in October it is unlikely that anyone representing SEA will be able to attend the October meeting and address the Council in person. It is our hope that this letter will suffice in our absence.

Sincerely,



Tom Suryan  
President, SEA

# North Pacific Fishery Management Council

T. HINKEL Sub.  
C-3(c)

Stephanie Madsen, Chair  
Chris Oliver, Executive Director



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June 29, 2007

Leo Erwin  
Chief, Financial Services Division  
United States Department of Commerce  
NOAA, NMFS  
1315 East-West Highway  
Silver Springs, MD 20810


RE: Limits on the use of the IFQ loan program in the Bering Sea/Aleutian Islands  
king and Tanner crab fisheries.

Dear Mr. Erwin:

At its June meeting, the Council received testimony from captain and crew interested in accessing the funds from the inchoate IFQ loan program in the Bering Sea/Aleutian Islands crab fisheries. Under the program, funds will be accessible only to persons active in the crab fisheries. Yet, some participants have expressed concern over the potential accessibility of funds to persons with substantial share holdings as vessel owners. At the meeting, the Council clarified that its rationale for development of the loan program was to support entry to the fishery. The Council further clarified that to fulfill this purpose, it intended that loan funds be accessible only to persons with less than a threshold amount of quota. Such a limitation would be similar to the limits on access to loan funds under the halibut and sablefish IFQ program, which was the foundation for the development of the crab loan program.

We respectfully request that you limit access to crab IFQ loan funds to persons that do not exceed a threshold amount of quota shares (similar or proportional to the threshold under the halibut/sablefish loan program) to ensure that these funds support entry to the fishery. Please let us know if such a limitation can be included in the loan program, or inform us as to what further action would be necessary to include the limitation in the program. Please contact myself or Dr. Mark Fina on our staff if you have questions regarding this letter.

Sincerely



Chris Oliver  
Executive Director

cc: Jessie Gharrett  
Sue Salveson  
Council members



Tim Henkel, DSFU  
10-7-07 CAC

## Limits on the use of the IFQ loan program accessibility for the BSAI federal loan

In the C-3 crab document, an "active participant" is defined by participation as captain or crew in at least one delivery in a crab fishery included in the rationalization program in the last 365 days as evidenced by ADF&G fish ticket, affidavit from the vessel owner, or other verifiable sources.

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)

As it is written, it appears those who have already received considerable allocation of shares under this language could have the same full and equal access to the loan fund as those with little or no allocation once it becomes law. The potential problem this creates is that those with more assets and greater credit strength could quickly borrow a larger and disproportionate share of the fund. Since the fund has an annual fixed amount this could significantly reduce the money available to the crew and captains with little or no allocation that need to access the loan funds incrementally over time. Therefore, the DSFU requests council to amend the FMP language to include accessibility threshold amounts. One possible way to achieve this would be to use language such as the following;

And in addition to active participation, to be eligible for the loan program an individual can not have more than a total of ; (a 20,000 lbs. original allocation)  
(b 35,000 lbs. of original allocation)  
(c 50,000 lbs. of original allocation)