

Public Testimony Sign-Up Sheet

Agenda Item C-2 (e) CRAB "C" share

	NAME (PLEASE PRINT)	AFFILIATION
1	Tim Henkel	Deep Sea Fishermen's Union
2	Tom Suryan	SEA
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4	KEITH COLBURN	OWNER/CAPT. WIZARD
5	SHAWN DOCHTERMAN	CREWMAN'S ASSOCIATION
6	Tom Miller	CREW
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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 *CO*
Executive Director
DATE: March 28, 2008
SUBJECT: Crab management

ESTIMATED TIME 16 HOURS (all C-2 items)

ACTION REQUIRED

(e) Final action on active participation requirements for C share acquisition and holdings.

BACKGROUND

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). In the first two years of the program, some participants have questioned the specific provisions defining active participation requirements for C share acquisition and use. During the transition to the rationalization program, the fleet contracted substantially, eliminating eligibility of several for crew to acquire C shares. In addition, some participants believe a strict owner-on-board requirement is overly restrictive. To address these issues, the Council has identified alternatives to the current active participation requirements for analysis. At the February 2008 meeting, the Council reviewed the analysis and requested that staff release the document for public review and Council action at this meeting. The executive summary of that 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 “program” or 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). Under the program, individuals holding C share IFQ are required to be onboard the vessel harvesting those IFQ. C share QS holders who choose to join a cooperative are exempt from this requirement, however. In addition, to acquire C shares a person must have actively participated in a fishery subject to the program during the preceding 365 days. At its June 2007 meeting, based on public testimony and input from the Advisory Panel, the Council directed staff to analyze elements and options revising the active participation requirements for C share acquisition and use.

Purpose and need statement

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

Owner on board requirements and leasing prohibitions on C shares are scheduled to go into effect after the third year of fishing under the program. Those rules may be overly burdensome to active captains and crew given the current fleet fishing patterns in which vessels may not be active in all fisheries some years. Also, under the current rules in the program, C share holders that are cooperative members are exempt from owner on board requirements and leasing prohibitions. Revisions to the current participation requirements are necessary to establish reasonable participation requirements for C share holders and to ensure that the all C share holders remain active in the fisheries.

The current requirement that a person have participated in the fishery during the 365 days preceding an acquisition of C shares has the effect of preventing some displaced long-time captains and crew from acquiring share holdings to secure or maintain positions in the fisheries. A revision to the current requirements for active participation could address this problem by providing long-term participants with the opportunity to acquire shares.

Alternatives to modify active participation requirements for persons wishing to acquire C shares during the current transition:

Alternative 1 (Status quo)

Alternative 2 (may be adopted with alternative 3)

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

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

Alternative 3 (may be adopted with alternative 2)

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

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historic participation), and
- 3) demonstrates participation in the BSAI rationalized crab fisheries during
 - i. 3 of the 5 seasons, or

ii. 2 of the 3 seasons,
immediately preceding implementation of the rationalization program.

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

Alternative 1 (Status quo)

Alternative 2 (may be adopted with alternative 3)

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

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

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

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

Alternative 3 (may be adopted with alternative 2)

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

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

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

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

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

Analysis of Alternatives

Status quo

Under the status quo, to acquire C shares a person must be an individual with at least 150 days of sea time in a harvest capacity in a U.S. commercial fishery and have been active in one of the rationalized crab fisheries in the preceding 365 days. Participation is defined as being on board a vessel as either captain or crew during at least one landing. Under this standard, captains and crew displaced by fleet contraction, who have not found a position in one of the fisheries, would not be permitted to acquire C shares, until participating in a landing. Based on the fleet contraction that occurred in the first two years of the program, it is likely that as many as two-thirds of the persons that would have met this standard prior to the implementation of the program would not currently meet the standard.

Initial allocations were made only to state permit holders (generally captains), who met specific historic and recent participation requirements as permit holders. Of the 231 permit holders who received initial allocations of C shares, 97 are estimated to have remained active as card holders (i.e., most likely as captains) in the first year of the program, while 84 are estimated to have remained active as card holders in the second year of the

program. Data showing activity as crew are not available. It is possible that additional recipients of initial allocations were active as crew, but it is believed that most captains who have not retained a position as captain are not active in the fisheries. Under the status quo, inactive persons, including recipients of an initial allocation, would not be able to acquire additional C shares.

Two sets of persons active on vessels in the fisheries prior to implementation of the rationalization program did not receive an initial allocation. Captains that did not meet both the historic and recent participation criteria did not receive initial allocations. Comparing the number of recipients of initial allocations with the number of active vessels in the fisheries, it appears that captains of at least 25 vessels active in the fisheries in the 5 years preceding implementation of the program did not have captains that received an initial allocation. In addition, no crew, regardless of their record of participation, received initial allocations. Based on the difference in the number of vessels participating in the fisheries prior and subsequent to implementation of the rationalization program, at least 750 former crew who were active in the five years preceding implementation of the program are no longer active in the crab fisheries.¹ Together, in excess of 900 persons active in the 5 years prior to implementation of the rationalization program appear to be no longer active in the fisheries. These persons include inactive initial recipients of shares, inactive captains (who did not receive an initial allocation), and inactive crew. Any of these persons that did not secure a position on a vessel in the fisheries after the program was implemented would not be permitted to acquire C shares under the existing active participation requirement.

A few different influences could motivate the purchase of shares by persons no longer active in the fisheries. Some of these persons could view share holdings as providing a potential avenue to reemployment in the fisheries. These persons may believe that share holdings could improve their chances of gaining employment in the fisheries. If a vessel owner views a potential crewmember's share holdings as an indication of that person maintaining a long term interest in the fishery, that vessel owner could be induced to hire the person over other applicants that have no share holdings. In addition, some persons who have had extended careers in the fisheries could also view C share holdings as a reasonable means of maintaining an interest in the fisheries. These persons may accept being displaced from employment in the fisheries, but wish to maintain a long term interest in the fisheries. Under the status quo, these persons would not be permitted to acquire C shares.

Alternatives to change eligibility to acquire C shares

The action includes two alternatives defining persons receiving transitional eligibility to acquire C shares. One alternative would create eligibility for persons that received initial allocations of C share QS. The other alternative would create eligibility for persons who demonstrated threshold participation in the years preceding implementation of the program. In the second year of the program, approximately 147 persons who received an initial allocation under the program did not participate in program as a card holder. These persons would all be eligible to acquire C shares under the first alternative under consideration. While the alternative to extend transitional eligibility to recipients of initial allocations of C shares would address their concern, the provision will not help certain persons that may be similarly aggrieved under the current active participation requirements.

The second alternative would allow persons who participated in at least one of the rationalized fisheries during either 3 of the 5 years preceding implementation of the rationalization program, or 2 of the 3 years preceding the rationalization program, to purchase C shares. Since participation records for crew are not available, estimates of eligibility under this provision are not possible. Examining vessel participation patterns, however, provides some basis for assessing the potential effects of the provision. A total of 255 vessels participated in at least 3 of the 5 years immediately preceding the rationalization program, while 253 participated in at least 2 of the 3 years immediately preceding program implementation. Assuming consistent crew participation on these

¹ This estimate is based on the assumption that each vessel employs 5 crew (excluding the captain).

vessels, these data suggest that approximately 1500 crew (including captains) would meet these eligibility criteria. If the persons who received initial allocations of C shares that are currently active are assumed to be among those meeting the participation criteria, then approximately 800 persons would be eligible to acquire C shares under this provision. If it is assumed that the currently active captains and crew are among these people, approximately 900 persons would qualify under this alternative (excluding initial recipients who are no longer active in the fisheries).

Two competing effects are likely to arise from these provisions expanding eligibility to acquire C shares. First, persons provided eligibility by the provision, who wish to purchase shares could benefit from the ability to compete for their purchase. The benefit to those receiving transition eligibility and the effects on the market for C shares could be influenced by other factors. Most importantly, the rules governing C share use will affect whether persons with transitional eligibility will benefit from that eligibility. Specifically, if C share holders are required to be active in the crab fisheries to receive IFQ allocations (as is addressed in the second part of this action) or are required to divest after a period of inactivity, transitional eligibility could have little effect on persons receiving that eligibility.

The competing effect of the transitional eligibility will be felt by persons active as captains and crew in the fisheries. Persons currently participating in the fisheries as captain and crew are likely to be disadvantaged by an increase in competition for C shares that could arise from providing transition eligibility to persons no longer active in the fisheries. If only initial recipients of C shares are given eligibility, approximately 150 additional persons would be eligible to acquire C shares. Under the current rule, more than 600 persons are likely to be eligible to acquire C shares. So, the pool of eligible persons could increase by as much as 25 percent under the option that would grant eligibility to initial recipients of C shares. If the Council selects the broader alternative that grants eligibility to persons meeting participation thresholds for the years prior to implementation of the program, eligibility would be granted to substantially more persons. Under such a provision the number of persons who could acquire C shares would more than double from the current level (if crew participation patterns are similar to vessel participation patterns). Although the pool of eligible persons would expand substantially, the change in competition for C shares is uncertain. Many of the persons eligible under these provisions are unlikely to attempt to acquire C shares, as most are unlikely to attempt to reenter the fisheries by acquiring shares. Whether entry to the market by persons eligible under this provision will affect the cost of shares and the ability of currently active captains and crew to purchase shares is not known.

The Council has elected to consider two options defining the term of the transitional eligibility to acquire C shares. That eligibility could extend for 5 or 7 years from implementation of the program. Any action under this amendment is unlikely to be implemented prior the 2008-2009 fishing season (i.e., the fourth year of fishing under the program). Consequently, the option to extend transitional eligibility for 5 years from implementation would likely provide between 1 and 2 years of eligibility, while the option to extend that eligibility for 7 years from implementation would likely provide between 3 and 4 years of that eligibility. A short period during which a relatively large number of persons are eligible to acquire shares could cause some disruption to the market, if a noticeable portion of the group is very active. The shorter period is likely to cause greater disruption, particularly if persons benefiting from the transitional eligibility believe that a limited portion of the C share pool is likely to come onto the market during the brief period. The longer eligibility period could disperse the impact of qualifying additional persons for the market, but a 3 to 4 year period is a relatively short period of time during which additional persons in the market could be noticeable.

The effects of alternatives to provide transitional eligibility on managers are expected to be relatively minor. Under the current eligibility provisions, a participant can demonstrate activity as a permit holder on a fish ticket or through affidavits of vessel owners. These (with other additional forms of evidence) could also be used to show participation under the options for this action. The applications would be required to be slightly more extensive than the existing forms (requiring several years of participation instead of a single year's activity as

required under the current rules), but would effectively use the same (or similar) evidence. In addition, since the transitional eligibility would only apply for a period of years, the added burden of accommodating persons receiving that eligibility would be only for the period of the provision. The enforcement burden arising out of this revision would also be relatively minor. Although a substantial number of persons could become eligible from this provision, the general approach to enforcement would be to pursue any case of possible inappropriate applications. Although this could result in a larger number of cases, the potential number of cases would be limited by the number of persons applying for eligibility and the potential for persons to misrepresent their prior fishing activity. Although some misreporting is possible, it is not believed that a substantial number of persons misreporting fishing history to create transitional eligibility will result.

Effects of provisions revising active participation requirements for C share holders

The second part of this action considers revision of the rules governing active participation requirements of C share holders.

Status quo

Under the status quo, individuals who hold C share IFQ are required to be on board the vessel harvesting those IFQ. If a C share holder joins a cooperative, the IFQ are allocated to the cooperative, effectively removing the onboard requirement with respect to those IFQ. This disparate treatment of individual C share holders and C share holders who are cooperative members has several effects. First, the incentive for a C share holder to join a cooperative is increased by relief from the owner on board obligation. Second, to the extent that the current rule is intended to ensure C share holders are on board when their IFQ holdings are harvested, the rule is likely ineffective. Data are unavailable to show the extent to which C share holders are onboard for the harvest of their IFQ; however, card holder activity suggests that a large majority of the permit holders who received an initial allocation of C shares are no longer active as captains.

In the long run, as active C share holders retire from captain and crew positions, it can be expected that many may elect to continue to remain members of cooperatives and retain their C share holdings through established relationships. Over time, the retirement of active C share holders from crab fishing jobs will contribute to a reduction in the number of C share holders active in the fisheries. Some C share holders can be expected to remain, particularly as new acquisitions will only be permitted by persons active in the crab fisheries. Yet, at any one time, a large portion of the C share pool could be held by persons that are not active as captains or crew.

An additional effect of the current participation requirements is that the market for C shares could be less fluid. If only active captains and crew are permitted to receive benefits from C shares, it is likely that the market for these shares will be more active, since persons who retire or exit from captain and crew positions will transfer shares. Without this requirement for active participation, it is likely that C shares will be held persons who have left their captain and crew positions and participate as cooperative members. The added flexibility for C share holders allowed through the absence of active participation requirements for cooperative members could also increase the value of C shares. Whether a price increase is observed depends on whether the absence of active participation requirements for cooperative members under the status quo reduces supply of C shares in the market.

Alternatives to change active participation requirements for C share holders

Two alternatives are under consideration that would change the active participation requirements for C share holders. Under the first option, C share QS holders who have not participated in at least one of the crab fisheries for a period of three consecutive years would not receive an annual allocation of IFQ. Examining activity of C share holders in the first two years of the program provides some perspective on the effects of this provision. During the third year of the program, 108 of the 213 C share holders in the fisheries are estimated to have not participated as card holders (i.e., captains) in the preceding two seasons. Also, 130 of these C share

holders were not active in the immediately preceding season as a card holder. Whether these C share holders were active as crew is not known. Those who remain inactive for a period of three consecutive years would not receive IFQ allocations under the first option. The share of the C share QS pool held by persons inactive as card holders for the first two years of the program is a substantial (and in some cases a majority) of the C share QS pool.

Whether this drop is an actual decline in C share holder activity is not known. It is possible that some C shares have been acquired by crew (other than captains) who are less likely to be card holders. It is also notable that the percent of the C share QS pool held by persons active as card holders dropped in all fisheries. Again, the extent to which this decline represents an actual decline in active participation by holders of C share QS or a change in the composition of C share holders (from captains to crew) is not known.

An option would allow persons who received an initial allocation of C share QS, but who are not active in the crab fisheries, to receive annual IFQ allocations provided they have at least 30 days of participation in State of Alaska fisheries or federal fisheries off Alaska in the 3 years preceding the allocation. This more liberal approach to active participation requirements for C share QS holders would provide substantially greater opportunities for people who received initial allocations of C share QS to receive annual allocations of C share IFQ. Crew data for Alaska fisheries are incomplete, limiting the accuracy of any estimates of crew participation. Based on available data, upwards of 21,000 persons may have participated in the Alaska fisheries in 2006. In 2005, in excess of 20,000 people are estimated to have worked as crew in Alaska's State and federal fisheries during the month of July alone. Many of these jobs are short term positions in Alaska's summer salmon fisheries. This provision will clearly expand the opportunity for the persons who received an initial allocation of C share QS to continue to receive annual IFQ allocations by meeting the 30 day participation requirement for the preceding 3 year period.

Under the current rules, approximately 3 percent of the QS pool is allocated as C share QS. If these IFQ allocations are not made to C share QS holders who are not active, it is possible that the C share IFQ allocation could be reduced by as much as 50 percent (i.e., C share IFQ would total approximately 1.5 percent of the total IFQ pool, instead of 3 percent). To ensure the C share IFQ pool remains at the percentage intended by the Council, an option is proposed that would maintain the C share IFQ issuance at the percentage set by the Council (which is currently 3 percent). If this provision is adopted, the agency would annually allocate 97 percent of the IFQ pool to vessel owners and 3 percent of the IFQ to holders of C shares. The 3 percent allocation to C share holders would be allocated only to C share QS holders that meet the active participation requirements based on their respective C share holdings. By separating the calculation of IFQ allocations to C share QS holders from allocations of IFQ to vessel owner QS holders, the allocation of IFQ to C share QS holders would be maintained at 3 percent of the total IFQ pool regardless of whether some C share QS holders do not receive IFQ allocations because of their failure to meet active participation requirements. This approach to allocations could be justified, if the Council believes that the 3 percent IFQ allocation to active captains and crew should be maintained, regardless of whether some C share QS holders fail to meet the requirements for an annual allocation. If the Council later chose to change the size of the C share IFQ allocation, this provision would be implemented by maintaining the C share IFQ allocation as the percentage of the total IFQ pool identified by the Council.

The withholding of annual IFQ allocations from C share QS holders not meeting active participation requirements could be complemented by the selection of an alternative that would revoke C share QS, if active participation requirements are not met for a period of 4 or 5 consecutive years. The rationale for revoking C share QS is that holders who are inactive for an extended period effectively withhold these shares from other active captains and crew, who might wish to develop or expand their C share holdings. Failing to revoke these shares, it is possible that some C share holders may maintain their holdings for an extended period. The incentive for inactive C share holders divesting their QS, absent a pending revocation, could be rather minor,

especially for persons who received their C share QS in the initial allocation. Precise estimates of the number of C share QS holders and quantities of C share QS that could be affected by this action are not available since the program has only been in effect for 2 years. Estimates of the number of C share QS holders that would not receive annual IFQ allocations may also be viewed as preliminary estimates of the number of persons that could be affected by this provision.

This alternative also contains options that would extend the time prior to which it takes effect. Under this provision, no revocations would occur until between 5 and 10 years after implementation of the program. Delaying implementation of the provision could allow participants time to assess the transition of the fishery under the new management and determine whether they will be active in the new fishery. Under the current timeline for implementation of this action, it is likely that the 5th year implementation option would provide between one and two years notice to C share holders that are inactive. Extending implementation beyond 5 years would provide additional time (up to approximately 7 years notice if 10th year implementation is selected) for persons to decide whether to divest of their shares, become active, or have those shares revoked. Any of the proposed implementation timelines should provide sufficient notice to C share holders to allow them to prepare for implementation of the provision. Although these share holders might be able to plan for implementation of the provision, the more compressed timeline (5 years after implementation) could have some ramifications for C share holders and those wishing to acquire C shares.

Implementation of either of the alternative revising active participation requirements for C share holders is likely to be challenging administratively and logistically. Effective implementation of a provision to withhold IFQ must include a process for submission of documentation of participation and an opportunity for appeal to the person whose IFQ are withheld. Until the finding that IFQ may be withheld is final, IFQ would need to be reserved to ensure shares are available in the event the C share QS holder prevails. Typically, NOAA Fisheries makes all allocations of IFQ at one time. To effectively withhold IFQ and redistribute that IFQ to others in the fishery requires that decisions concerning eligibility to receive IFQ be finalized prior to the allocation of any IFQ. A timeline to complete the processing of documentation of participation to finalize these findings is needed to ensure of timely processing of applications and appeals. Critical aspects of that timeline are:

- 1) submission of a statement of active participation annually;
- 2) submission of a statement of active participation as a condition (or portion) of the IFQ application;
- 3) submission of statement of active participation in advance of the remainder of the IFQ application.
- 4) 30-45 day period for appealing findings of inactivity.

Although the requirement for participation is based on activity in a three year period, since IFQ allocations are made annually, the most effective way to document participation is annually. Annual documentation limits staleness of information and could benefit both applicants and the agency. To ensure that C share QS holders annually submit documentation of participation that submission (a 'statement of participation') could be made a requirement for IFQ issuance. To allow for timely processing of applications of C share holders (and particularly finalizing decisions with respect to active participation prior to IFQ issuance) will require the submission of statements of active participation in advance of the current application deadline. Depending on the NOAA Fisheries Office of Administrative Appeals' ability to process appeals, it is possible that appeals that fail to assert that the active participation requirement was met (i.e., making no claim to support a favorable finding) could be summarily dismissed prior to the issuance of IFQ. In addition, NOAA Fisheries Office of Administrative Appeals might be able to summarily dismiss cases involving late submissions that do not claim extraordinary circumstance beyond the appellant's control. Creating a system that allows some decisions to be finalized prior to the issuance of IFQ will allow the provision for withholding IFQ to better serve its purpose, since IFQ would need to be reserved for any claims that are not finalized. Once findings are final those IFQ can be issued to other persons. So, if any determinations that are not finalized prior to issuance of IFQ will require that a portion of the IFQ not be allocated for the year. Appeals disputing evidence of activity would

likely require additional time to resolve, requiring IFQ to be reserved to cover the contingency of a successful appeal by the QS holder. In considering the structure for resolving findings concerning active participation, it should be noted that any unresolved adjudications will have spillover effects, particularly if the Council adopts a mechanism to ensure that 3 percent of the IFQ pool is allocated to active C share holders. Since a portion of the IFQ pool must be reserved to address the possible claims of initially disallowed C share QS holders, it is assumed that IFQ reserved against those claims would count toward the C share IFQ pool. Depending on the level of active participation in the pool of C share QS holders, it is possible that a substantial portion of the C share QS pool could be made up of reserved, but unallocated IFQ, if decisions cannot be finalized for a substantial number of shares and the reserved shares are counted toward the C share IFQ allocation.

The option to maintain C share IFQ as a specific portion of the IFQ pool (currently 3 percent) would be implemented by identifying the pool of C share QS that will receive IFQ, and allocating 3 percent of the TAC in the rationalization program to those IFQ. Under the current system, C share QS is approximately 3 percent of the total QS pool, with division of the annual IFQ allocations between C share IFQ and owner IFQ generally close to the QS pool split. If a substantial amount of the C share IFQ are not issued because of failure of C share holders to meet active participation requirements, it is possible that C shares could be substantially less than 3 percent of the IFQ allocation. Finalizing determinations of active participation prior to IFQ issuance is critical to this provision having its intended effect.

Implementing the alternative to revoke shares from persons not meeting active participation requirements for a period of years could be implemented using the same process as used for implementing the requirements for IFQ allocations. The annual submissions of active participation could be used to determine whether a person's shares should be revoked by considering activity in the requisite number of years preceding the submission of the most recent statement.

The overall effect of the C share IFQ eligibility and the C share QS revocation provisions is that over time C share QS will be held by persons meeting the minimum participation threshold specified by the applicable provisions. Persons who hold C share QS, but do not meet the applicable participation threshold, will either divest of their C share holdings (or, if the revocation provision is adopted and they fail to divest, have their shares revoked). These persons (including persons intended to benefit from the initial allocation) will have an opportunity to receive a benefit from their C share QS holdings through the sale of that QS to persons eligible to acquire those shares. Although the provisions governing eligibility to acquire C shares and the provisions limiting those who may receive C share IFQ and retain C share QS holdings will affect the pool of persons in the C share market as buyers, a substantial number of persons are likely to be eligible and interested in C share acquisition. As result, the C share QS prices are likely to be lower than owner QS prices, but a market for those shares will exist.

The Council has also included for consideration an option to exempt persons who received an initial allocation of C shares and who are over 60 years of age from any active participation requirements applicable to any C share QS received in the initial allocation. So, persons meeting these criteria would not be required to participate in any fisheries as captain or crew to continue to receive C share IFQ from their initial allocation of C share QS or to retain C share QS holdings received in the initial allocation. Data are not available to determine the specific number of persons who would qualify for this exemption, but the number is limited since only persons who currently hold C share QS received in the initial allocation would qualify for this provision. A large majority of the current C share QS holders in each fishery received initial allocations of C shares, but several may not qualify for the exemption based on their ages.

The Council's rationale for considering this exemption is not clear. If adopted, it would appear that the Council would be interested in ensuring that older initial recipients of C share QS are able to retain that QS and derive

annual allocations from it. The rationale for applying an age limit to the exemption is not apparent. Stock fluctuations would appear to make crab QS a relatively risky investment. Increasing the incentive for older people to retain risky interests would appear to run counter to investment norms. If the objective is to prevent inactive persons from losing annual allocations or being required to sell very soon after receiving the initial allocation, the length of the grace period during which application of revocation is suspended could be extended and a grace period could be applied to eligibility to receive IFQ. These grace periods could benefit initial recipients of C share QS by increasing the value of that QS, particularly if stock growth increases TACs or leads to opening of fisheries that have been closed in recent years. On the other hand, stock and TAC declines could pose a similar risk of loss to QS holders.

Net benefits to the Nation

Although the changes this action will have distributional effects on persons holding or interested in holding C shares, it will not affect production from the fisheries. As a consequence, this action is likely to have little or no effect on net benefits to the Nation.

AGENDA C-2(e)
Supplemental
APRIL 2008

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MAR 24 2008

N.P.F.M.C.

March 24, 2008

Mr. Eric Olson, Chairman
North Pacific Fisheries Management Council

Transmitted by fax to 907-271-2817: 2 pages

RE: Draft Agenda Item C-2(e) for the April 1, 2008, NPFMC meetings

Dear Mr. Chairman and Council members:

I am writing on behalf of my grandfather, Soren Sorenson, who testified before the council during the February 2008, Seattle council meetings on the issue of Crab 'C' Share Active Participation.

He supports the following Suboption in reference to Alternatives 2 and 3 for revision of active participation requirements for C share holders:

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

Implementing this Suboption will be the only way my grandfather and others like him will be able to keep their C shares. He tendered last summer and is helping out for a few weeks on an Opilio boat this year, but at 72 years old he realizes his fishing career is nearly over and will not be a viable option for the future. When my Grandfather started crab fishing there were only three boats in the entire fishery, he was a pioneer, and his C shares are the only thing he'll take with him after 40 plus years of crab fishing in Alaska. He and others like him paid many dues over the years and it seems only fair and just that the industry would recognize and make allowances for those individuals whose mighty efforts have brought us to where we are today.

Because many initial QS recipients 60 years of age or older will find it difficult, if not impossible, to satisfy ongoing active participation requirements, this exemption is critical to ensure that older captains receive the full benefits intended by the Council. In other words without this exemption they will be forced to forfeit the full value and intent of their C shares. I believe there will be a limited number of qualifying C share holders therefore this exemption should not unreasonably provide a loophole for individuals wishing to avoid the active participation requirements.


Mr. Eric Olson, Chairman
March 21, 2008
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Once again I urge you to support the Suboption in reference to Alternatives 2 and 3 for revision of active participation requirements for C share holders:

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

Thank you for you time and consideration.

Sincerely yours,



Micheal Shelford

Subject: Crab Management, C-2-E, C share active participation

Mr. Chairman, Members of the board. My name is Haukur Johannesson, I reside at 1245 Northeast 92nd St., Seattle, Washington 98115

I fished Crab in the Bearing Sea for 20 years. I was forced out of the fishery because of the crab rationalization program. I don't think any of us thought that it would cut the fleet from 250 boats to about 85 boats. Because of this I went from making a good living as a fisherman to getting a job on the beach for \$15 an hour. I **cannot** get a job as a captain on a Crab boat with this small a fleet. Fishing in another fishery in Alaska is also not an option for me, as I am holding a job on the beach at this time and still working within the fishing industry. No Company would let an employee miss a whole month from work.

Why should I or other skippers that qualified for the original C shares be forced to sell our quota. I do count on the income from my C shares to get by every year.

I disagree with only grandfathering in people over a certain age. I am 44 years of age and I wish to be grandfathered in as an original C share quota holder. In order to qualify for the C Shares a Captain had to fish at least 4-5 years in between 1993 and 1998, and also have recent participation in 1999-2001. We did put in our time. And I cannot get a job running a crab boat. The jobs are simply not there to be had.

As of today because of the unknown situation with the onboard requirement, the value of C shares are unstable. On the market, they are worth less than 2/3 of the harvester owner shares market value. There are only a limited amount of buyers. I do believe that if the Coop option is left in the regulations for the original C share holders, the market will stabilize and non-active participants will sell their shares for a more realistic value when that time comes. So why should there be a time limit on how long I can keep my C shares?

I would also like to be able to have the option to pass along my quota shares to my 17 year old son, who may soon like earn a living as a fisherman, just as other Alaskan limited entry salmon seiners, gillnetters and setnet site owners do.

I absolutely agree that we should have an active participation requirement for the purchase of "C" shares. But the mandatory liquidation at a future date when one no longer qualifies as active will come back and haunt us.

With the rising Quotas, we will have more boats and crew on the water. But when quotas come down again (AND THEY WILL THEY HAVE BEEN DOWN NOW FOR 6-7 YEARS), then the fleet will consolidate again(AND IT WILL). Then the crew that you are trying to help, will get hit with a triple whammy, of NO JOB, LOWER VALUE BECAUSE OF LOWER QUOTAS (SHARES ARE TRADED ON A PER LB BASES). AND AN ADDITIONAL DOWNWARD STRAIN BECAUSE OF A FORCED FLOODED MARKET OF THOSE SAME SHARES.

Thank you for your time.