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# C3 Initial Review Analysis

## Active Participation Requirements for Crab C Shares

Sarah Marrinan, June 2023



# History of action



# What are Crab C shares?

Crab Fishery TAC - 10% for CDQ & Adak = IFQ allocation

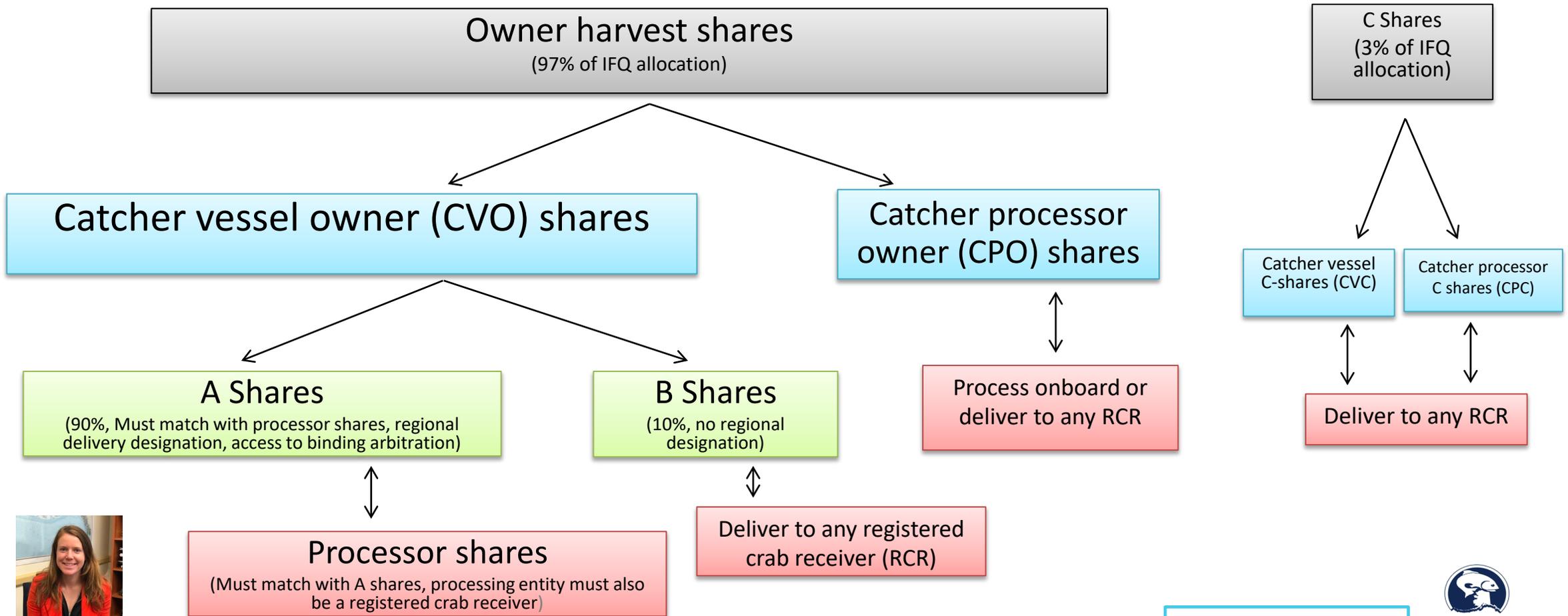


Figure 1, page 19



# What are Crab C shares?

Crab Fishery TAC - 10% for CDQ & Adak = IFQ allocation

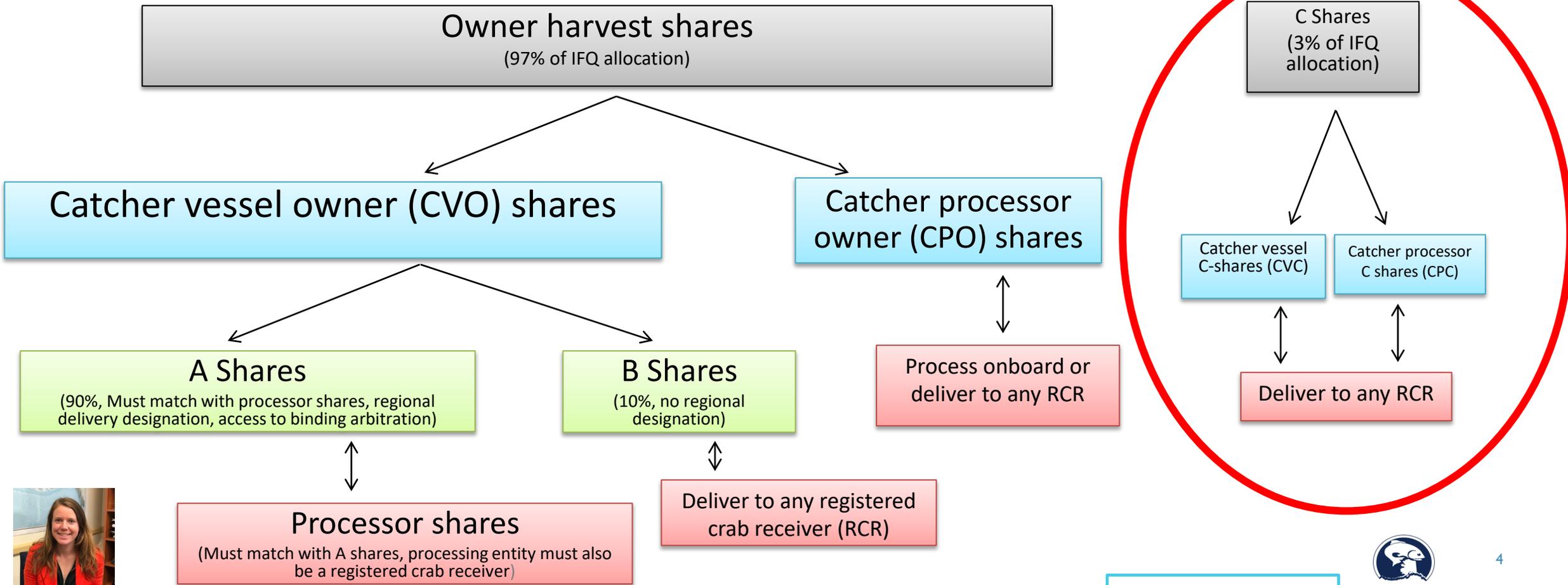


Figure 1, page 19



# Existing regulations for receiving Crab C shares by transfer

- The regulations require that an individual must be a U.S. citizen with
  - (1) at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery; and
  - (2) participation as crew in one of the CR Program fisheries in the 365 days prior to the date the transfer application is submitted to NMFS.
- This is different from “owner QS” which only requires #1 above

- All QS includes ‘use caps’ limiting how much QS an individual can hold.

Fishery	QS use cap as a % of the initial C share pool
BBR, BSS, EBT, WBT	2%
PIK, SMB	4%
EAG, WAG, WAI	20%



# Existing regulations for maintaining crab C shares



## Active participation requirements

In order to receive an annual allocation of C share IFQ, the QS holder must have either:

- 1) Participated as crew in **at least 1 delivery** in a CR Program fishery **in the previous 3 years**, or
- 2) If the individual is an initial recipient of C shares, they could demonstrate participation by **at least 30 days** as crew in a commercial fishery off Alaska (federal or state of Alaska) **in the previous 3 years**

To maintain C share QS holdings, the QS holder must demonstrate active participation (by the same definitions) **in the previous 4 years**.

There is a narrow exemption for those hold C share in a single closed fishery.

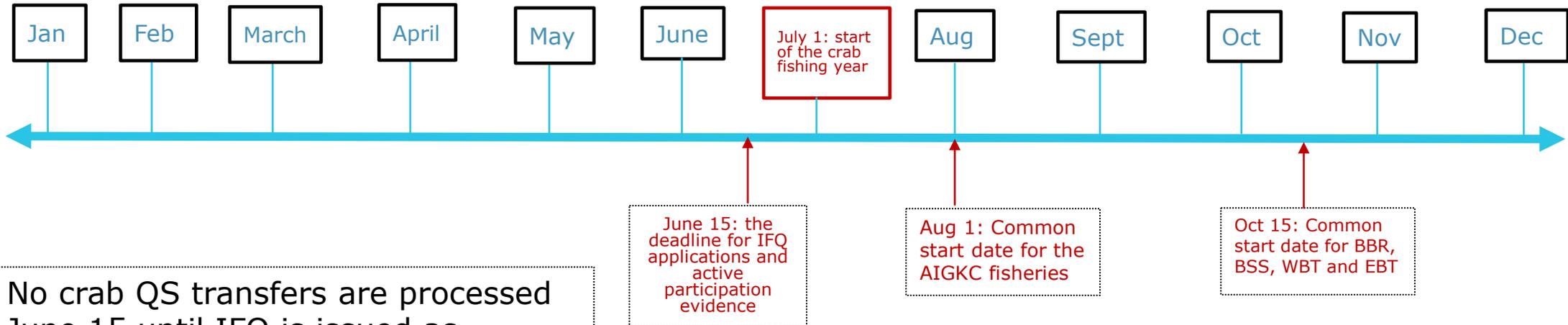
If not, and if C shares are not transferred to an eligible applicant, **all** C share QS held by that individual would be revoked and C share QS pool adjusted so it still represents 3% of crab IFQ.

Intention behind these requirements is to encourage inactive holders to divest, so that C shares remain available for active captains and crew.

Section 3.2.2, page 20



# Crab management timeline



- No crab QS transfers are processed June 15 until IFQ is issued as prescribed in regs. This is to ensure correct issuance of IFQ.

- Regs detail the noticing procedure if a C share holder fails to meet active participation
- Can also fail to meet active participation if C share holder does not apply for IFQ



# The purpose and need of action

Recent past circumstances (e.g., COVID-19 pandemic, crab stock declines, recent BBRKC and BSS fishery closures) and possibly future circumstances may be making it more difficult for C share holders to achieve active participation as required to retain QS.

Crab year	Amend 31 requirements became effective		Beginning July 1, 2018 RAM may withhold IFQ		Beginning July 1, 2019 RAM may revoke QS		Emergency rule- no IFQ withheld no QS revoked							
	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
Example 1	A	A	0	A	0	0	0	0	QS revoked					

A= active, 0 = not active; crab year = July 1 through June 30

- Could consider adding policy language to the purpose and need around intention for whether to maintain active participation requirements



## Council's June 2022 alternatives:

Alternative 1 - No action

Alternative 2 - Modify the CVC QS and CPC QS recency requirements

Option 1: Restart the recent participation requirement beginning in 2023/24 fishing year. Do not count 2019/20, 2020/21, 2021/22, toward the recent participation requirement.

Option 2: Give the Regional Administrator the authority to suspend the CVC QS and CPC QS recent participation requirement



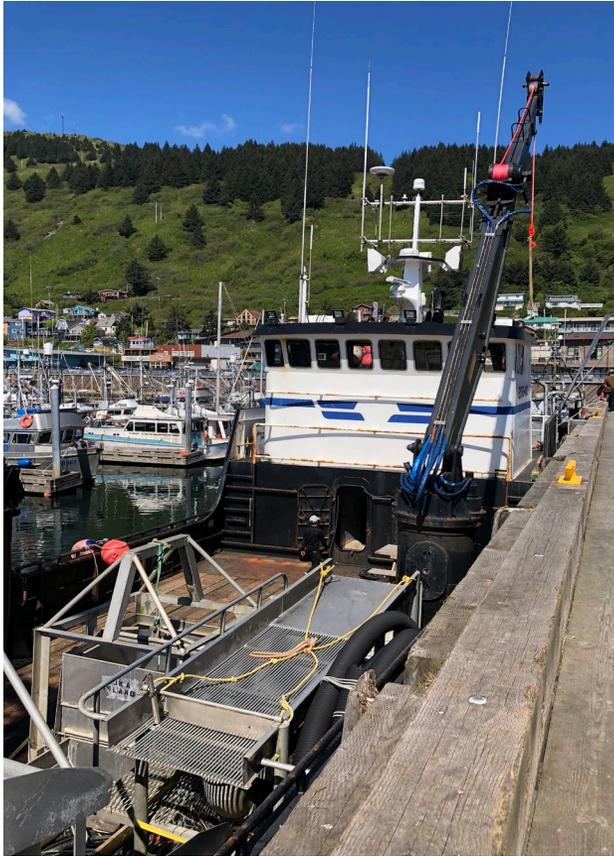
# Council's April 2023 clarification and additional concepts

The Council requests staff to analyze ways to provide an exemption for C share QS holders who were unable to fish during the covid years and due to recent closed or low TAC crab fisheries, including closed and low TAC crab fisheries in the future, **while maintaining the concept of active participation.**

- Suspending the recent participation requirement after the pandemic and beginning in 2023/24 only count fishing years where at least 15, 20, 25, or 30 BSAI crab vessels fish. Also analyze not counting 2019/20, 2020/21, 2021/22, through 2023/2024 toward the recent participation requirement.
- Analyze giving the Regional Administrator the authority to suspend the CVC QS and CPC QS recent participation requirement in years of low BSAI crab quota where few vessels' fish or due to other unforeseen circumstances (e.g., a pandemic)
- Expand participation requirements for non-initial issues to match the requirements of initial issues. In other words, "within the previous three years, participate in a BSAI crab trip OR participate as crew in at least 30 days of fishing in a commercial fishery off Alaska" for all CVC QS and CPC QS
- Not revoking any CVC or CPC QS associated with a closed fishery.
- Reissue any CVC QS and CPC QS that were revoked between July 2023 and the effective date of the proposed action.
- The Council requests staff identify potential criteria that the Council could select to guide future decisions by the RA to suspend the CVC QS and CPC QS recent participation requirement.
- The Council will review this information at the June meeting and may revise the P&N and alternatives and options at that time.



# Background information provided



Section 3.1 Statutory Authority

Section 3.2. Management of the BSAI Crab Fisheries

3.2.1 Crab Rationalization Management

3.2.2 C Share Requirements Under Amendment 31

3.2.3 Management Timeline for Crab Fisheries

Section 3.3 Description of the Fisheries

3.3.1 Fishery Status and TACs

3.3.2 Fishery Value and Price

3.3.3 Vessels and Crew

3.3.4 Quota Share Holders

3.3.5 C Share Quota Markets

3.3.6 C Share Active Participation Data



# Alternative 1, no action

Current regulations remain in place:

- Must demonstrate 1 CR Program delivery in the preceding 3 years, or (for initial recipients only) 30 days in a non-CR Program fishery in the preceding 3 years to receive C share IFQ
- Must demonstrate 1 CR Program delivery in the preceding 4 years, or (for initial recipients only) 30 days in a non-CR Program fishery in the preceding 4 years to maintain C share QS
  - If not, C share holder must transfer QS to an eligible individual or risk having the QS revoked
  - If revoked the C share QS pool would be smaller, meaning every other holder would receive a slightly greater %
- Narrow exemption exists for a holder in a single closed fishery

Fishery	C Share holdings across QS type		
	# of QS holders	Mean holdings (as a % of C shares in fishery)	Max holdings (as a % of C shares in fishery)
BBR	102	0.4%	1.2%
BSS	96	0.3%	1.6%
EAG	10	5.6%	12.6%
EBT	110	0.5%	1.7%
PIK	39	1.4%	4.8%
SMB	60	0.9%	2.5%
WAG	8	5.6%	41.7%
WAI	4	20.0%	49.5%
WBT	110	0.5%	1.9%

Section 3.4.1, page 38- 40

From Table 7, page 35



# Alternative 1, no action

It is expected more C share holder would be in a position of needing to transfer QS or failing to meet active participation requirements given less opportunity to crew, as shown by:

- **Recent low TACs and closed fisheries (Figure 2)**
- Limited number of vessels (Table 4)
- Limited number of crew positions (Table 5)

Expected to be very limited market for C shares – particular in closed fishery.

- Figure 7 demonstrates recent QS and PQS sales

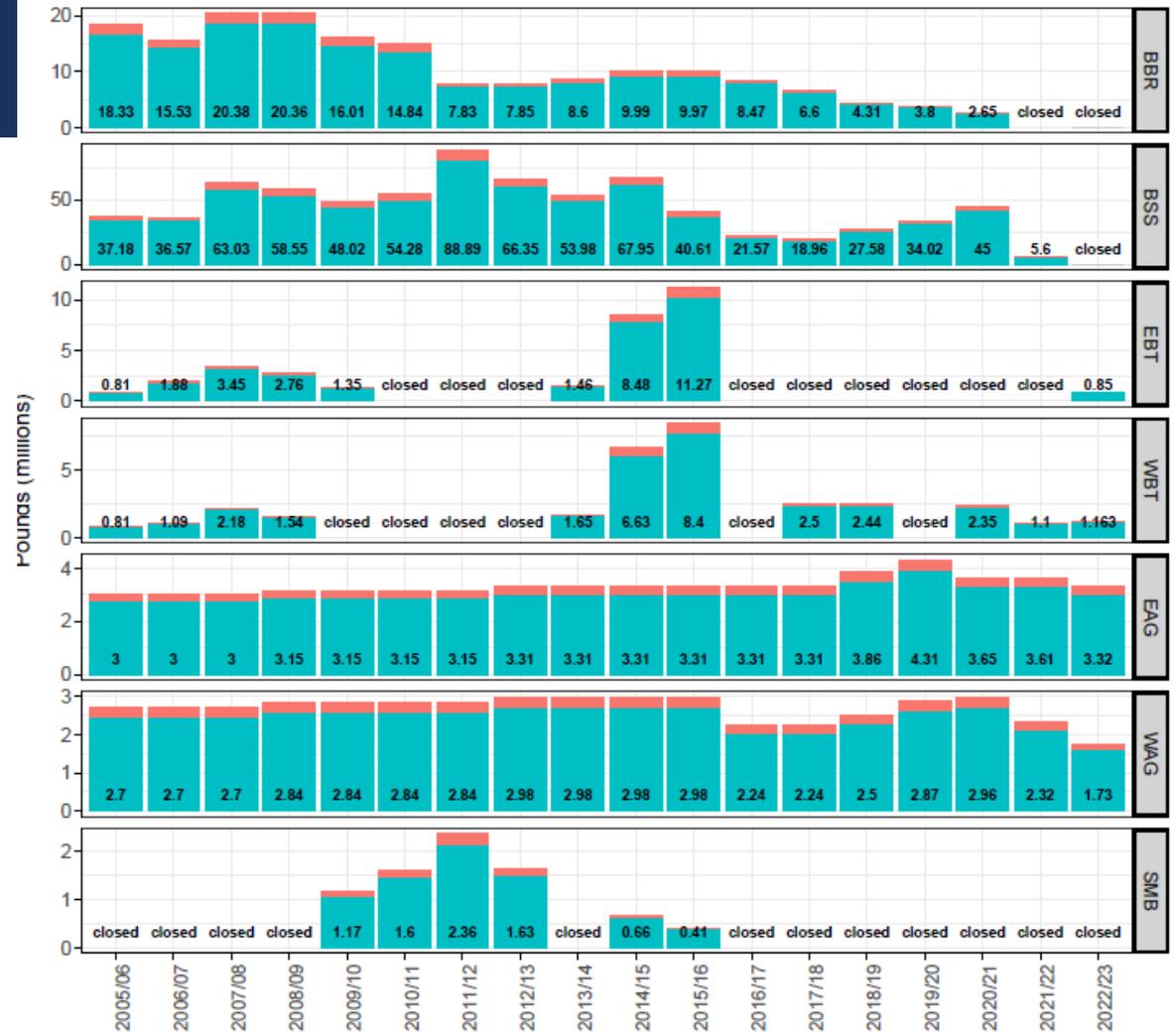


Figure 2, page 24; Source: Econ SAFE



# Alternative 1, no action

## Estimated crew employment and income, by community/ region of residence

CR Program crew most often coming from Alaska and Washington.

- Within Washington – mostly Seattle MSA.
- Within Alaska- mostly Kodiak, Anchorage, in 2020 Southeast AK and Western AK had a big jump

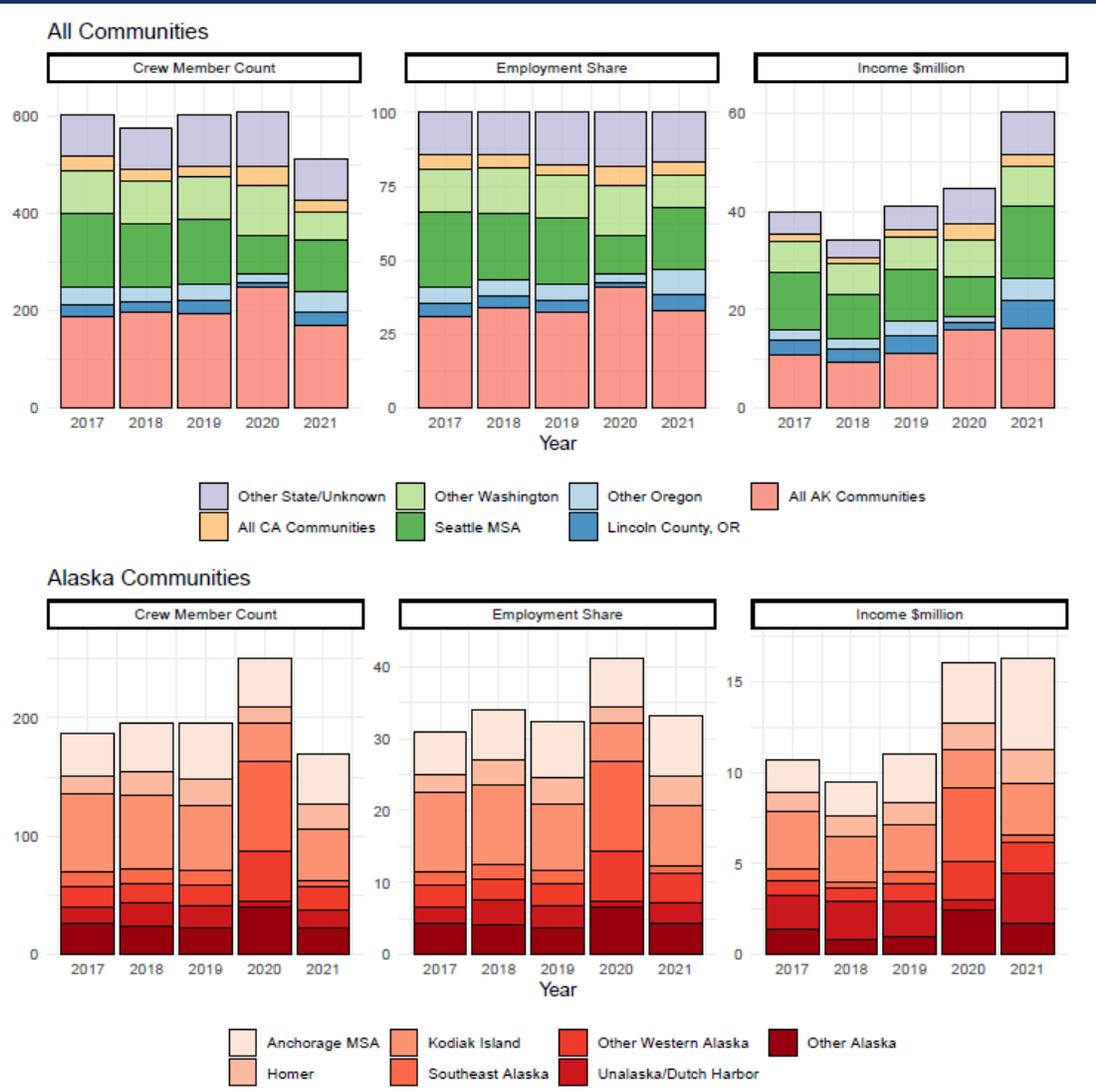


Figure 6, page 32; Source: Econ SAFE



# Alternative 1, no action: C share holder examples

Crab year	Amend 31 requirements became effective			Beginning July 1, 2018 RAM may withhold IFQ		Beginning July 1, 2019 RAM may revoke QS		Emergency rule- no IFQ withheld no QS revoked						
	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
Example 1	A	A	0	A	0	0	0	0	QS revoked					
Example 2	A	A	A	A	A	0	0	0	IFQ withheld; 0	QS revoked				
Example 3	0	0	A	A	A	0	0	0	IFQ withheld; A	0	0	A	0	0

A= active, 0 = not active; crab year = July 1 through June 30

Figure 8, page 40



# Alternative 2, Option 1: C share holder examples

## Option 1: "Restart" C Share Active Participation Requirements and Reissue C Share QS that is Revoked in the Interim

- the 2019/20, 2020/21, 2021/22, and 2022/23 seasons would not count towards the recent participation requirements
- recent participation requirement would *restart* beginning in 2023/24

Crab year	Amend 31 requirements became effective			Beginning July 1, 2018 RAM may withhold IFQ		Beginning July 1, 2019 RAM may revoke QS		Emergency rule- no IFQ withheld no QS revoked		Active participation requirements restart			Beginning July 1, 2026 RAM may withhold IFQ again		Beginning July 1, 2027 RAM may revoke QS again		
	2015/16	2016/17	2017/18	2018/19	2019/20 "EXEMPT YR"	2020/21 "EXEMPT YR"	2021/22 "EXEMPT YR"	2022/23 "EXEMPT YR"	no BBR	no BBR	no BSS	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
Example 1	A	A	0	A	0 A	0 A	0 A	0 A				0	0	0	IFQ withheld; 0	QS revoked	
Example 2	A	A	A	A	A	0 A	0 A	0 A				0	A	A	A	A	A
Example 3	A	A	A	A	A	0 A	0 A	0 A				0	0	0	IFQ withheld; A	A	0

Figure 9, page 42



# Alternative 2, Option 1

- However, the proposed option would require immediate implementation in order to achieve the desired outcome (application deadline is June 15, 2023 for the 2023/24 crab year).
- The regulatory process requires certain stages for analysis and public comment opportunities. Even the most expeditious timeline would not likely allow for implementation prior to the 2025/26 season

June 5 – 13, 2023 – Initial Review

June 15, 2023 IFQ application deadline for 23/24 year

October 2 – 10, 2023 – Council Final Action (T)

June 15, 2024 IFQ application deadline for 24/25 year

October 2024 – Soonest possible implementation of reg changes

June 15, 2025 IFQ application deadline for 25/26 year

First set of years where  
new regs may apply

- Proposed action would only possibly affect the 2025/26 application cycle
- Because of this, some C share holders are likely to have IFQ withheld and QS revoked in the interim



## Alternative 2, Option 1

Council could consider reissuing any C share QS that are revoked in the interim

- Would apply after rule-making
- No C share has been revoked yet; however, the administrative accounting has been inconsistent and it is expected there have been C share holders that haven't met the requirements in the past
- Uncertainty and risk may motivate some C share holders to sell in the interim. **Any transfer would need to occur prior to June 15**
- When C share QS is revoked, other C share holders would *de facto* receive a greater allocation
- When C share are reissued, QS pool will be larger again



## Alternative 2, Option 2

### **Option 2: Provide NMFS Regional Administrator the Authority to Suspend C Share Active Participation Requirements**

- Establish a more efficient process for extenuating circumstances
  - E.g., years with low TACs and where few vessels fish or due to other unforeseen circumstances
- An annual process could be defined where the RA uses criteria developed by the Council to identify whether the upcoming season would warrant exemptions from the active participation requirements
- Any criteria defined would need to be very specific.



# Alternative 2, Option 2: criteria

## Possible criteria for temporarily suspending C share participation requirements:

- A certain low TAC, using
  - An individual fishery TAC threshold
  - Aggregated TAC threshold from a sub-group of fisheries (e.g., BBR, BSS, WBT, EBT), or
  - Aggregated CR Program TAC
- A fishery subject to a rebuilding plan,
- A minimum number of fisheries that are open, or
- A minimum number of active vessels



## Alternative 2, Option 2: minimum number of active vessels

Season	BBR	BSS	EAG	EBT	WAG	WBT	SMB	All fisheries
2015/16	64	70	3	49	2	62		80
2016/17	63	63	4		3			72
2017/18	61	63	4	10	3	34		70
2018/19	55	61	3	8	3	36		66
2019/20	56	59	3		3			66
2020/21	47	62	3		3	41		67
2021/22		42	3		3	20		48
2022/23			3	17	3	14		22

### Only count fishing years where at least 15, 20, 25, or 30 vessels fished

- Across all CR fisheries -- > only the 2022/23 could have hit these thresholds
- In individual fisheries, levels may be tailored more to the historic participation specific to each
- Thresholds could be considered for a subset of fisheries (e.g., BRR, BSS, WBT, and EBT)



## Alternative 2, Option 2: application

### Application of action participation suspension:

- Council may also wish to be clear what happens when the threshold is met
- Current regs do not require active participation in every year, so the threshold would not exactly trigger an exemption
- Analysts explored several ways this may be applied:
  1. Consider C share holders “active” in the years where threshold was triggered
  2. NMFS could refrain from withholding or revoking in the following season
  3. NMFS could exclude years where the threshold is triggered, just for C share holders that didn’t meet the requirement



## Alternative 2, Option 2



- High level of specificity for criteria for RA decisions makes this option essentially the same as defining criteria in regulations
- The more complex the exemptions the more difficult they are to comply with
- And the more difficult to monitor and enforce



# Additional concepts for consideration

## Non-crab fisheries as active participation

- For initial C share recipients, can use 30 days in a non-BSAI crab fishery OR crab fishery
- Could make this consistent across C share holders
- Excepted to provide additional opportunity, but limited data to evaluate crew diversification

## Closed Fisheries

- Current regs require active participation if C share holder has **any** C share QS in a fishery that is open
- If they fail to meet active participation requirements **all** C share QS may be revoked
- Council could consider applying severability to closed fishery C share QS to lower this standard
- Most C share holders hold QS in a portfolio of fisheries
- Compelling the sale of QS in a closed fishery may not meet the intention of the requirements



# Monitoring and Enforcement

- Administrative review of C Share participation requirements has not been consistent in past years
- RAM is actively auditing previous year information and working to create a more consistent and efficient process moving forward
- IFQ/QS has never been erroneously withheld or revoked, but inaction has likely occurred
- Thus, this application cycle may result in more IFQ withheld and QS revoked due to current audit efforts
- Additional complexity from exemptions to the existing requirements will add to administrative challenges
- RAM is exploring improvements in how C share holders could electronically check their status – this may possibly occur through system improvements in the new Integrated Fisheries Application (IFA) under development
- However, there are priority objectives of this new system, and it would not occur right away



# Summary of the Concepts Considered

Goal of action	Thresholds considered	Actions considered	Process
1. Provide exemptions for the "COVID- years"	The conditions under 2019/2020 - 2022/2023 (COVID + closed fisheries)	<ul style="list-style-type: none"> <li>Restart requirements in 2023/24. No revocation until 2027/28, and/or</li> <li>Reissue C shares that were revoked in the interim</li> </ul>	Regulatory change
2. Create process for future exemptions due to stock declines	<ul style="list-style-type: none"> <li>Low TAC,</li> <li>Rebuilding plan,</li> <li>Min # of fisheries,</li> <li>Min # of active vessels, or</li> <li>Closed fisheries</li> </ul>	<ul style="list-style-type: none"> <li>Restart requirements,</li> <li>No withholding or revocation in that year, or</li> <li>Exclude year in the count</li> </ul>	<ul style="list-style-type: none"> <li>Regulatory change or</li> <li>Annual determination by NMFS Regional Administer based on criteria</li> </ul>
3. Expand opportunity to demonstrate active participation for non-initial recipients		Allow 30 days participation in any state or federal fishery to qualify as active participation	Regulatory change



Table 2, page 15



# Possible next steps

- Determine any changes to the purpose and need
- Any changes to the alternative set
- If moving forward, as Initial Review or Final Analysis?



# Questions?

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