

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-4(a) BSAI Crab IFQ/IPQ Deadline

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Steven Minor	NPCA
2	Jake Jacobsen/Edward Poulsen	ICE / Alaska Bay Sea Can Bees
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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.

Date: March 14th, 2011

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

From: Alaska Bering Sea Crabbers, Alaska Crab Coalition, Crab Group of Independent Harvesters

Re: Agenda item, C-4(a) Final Action BSAI Crab IFQ/IPQ Deadline

The Alaska Bering Sea Crabbers (ABSC) represent approximately 70% of the harvesters that fish crab in the Bering Sea. ABSC appreciates the opportunity to comment on the BSAI Crab IFQ/IPQ Deadline analysis which is scheduled for final action at the April meeting.

ABSC supports Alternative 2 in its entirety for final action. This action would:

1. Move the cooperative and IFQ and IPQ application deadlines to June 15th;
2. reduce the period to appeal an initial administrative determination denying an allocation of IFQ or IPQ to 30 days; and
3. Provide that an applicant's proof of timely filing for IFQ or IPQ creates a presumption of timely filing.

The RIR, including the problem statement, adequately describes the issues with the current August 1st deadline. The August 1st deadline along with the 60 day appeal period consistently results in stranded IFQ and IPQ. This is a result of NMFS administrators being compelled to reserve IFQ and IPQ sufficient to satisfy any disputes that may arise due to a failure to apply leading to a successful appeal. NMFS must ensure that IFQ/IPQ is available in the instance the applicant wins the appeal. If the applicant fails to win the appeal, the IFQ/IPQ is then reserved creating a mismatch between IFQ and IPQ therefore stranding additional quota not related to the applicant. This wouldn't be an issue if there were enough time to resolve appeals prior to IFQ/IPQ being issued. Unfortunately, the current 50 day window between the application deadline and IFQ/IPQ issuance is simply not long enough to resolve appeals in most cases.

In addition, the current regulations create additional logistical problems for the applicant even if he successfully wins on appeal, particularly for the Bristol Bay red king crab fishery. If the applicant is successful in his appeal, the current regulations provide very little time for the applicant to actually have his crab harvested or processed due to the regulatory closure of the Bristol Bay red king crab fishery on January 15th. Appeals have the potential to extend in December which is well into the season. Much of the harvesting and processing activity has ceased by this time resulting in an appeal that may have been won but creating the same result as if it had been lost.

ABSC supports changing the application for IFQ and IPQ to June 15th for a few reasons. First and foremost, it will result in much lower odds of stranded quota as there will be another 45 days available to adjudicate appeals which will reduce the odds of stranded or unharvestable IFQ or IPQ. Second, in general there are fewer distractions for industry and RAM on June 15th. Many harvesters and processors are engaged in the salmon fisheries in July and August. In addition, the analysis explains that RAM is less busy during the June 15th period versus August.

ABSC also supports reducing the time for filing an appeal to 30 days from the current 60 days. Although the NOAA Fisheries standard procedure is to allow for 60 days, ABSC believes that 30 days is more appropriate in this case for several reasons. First, the costs of a 60 day appeal period vastly outweigh the benefits. A 60 day appeal period creates risk of stranded or unharvestable IFQ/IPQ. Not only does this affect the applicant, but it will also affect innocent parties due to stranded quota. This is a significant negative result and a shorter, 30 day window is justified for this reason.

Second, almost all IFQ is issued to cooperatives which have designated managers to oversee the IFQ while IPQ is generally held by large companies with staff to oversee business operations. In both cases, there are staff available to reduce the potential that a quota holder will not receive a timely notice of a denial of IFQ or IPQ.

Finally, as noted in the analysis, NOAA Fisheries staff make considerable effort to ensure that persons failing to apply for IFQ or IPQ receive notice of a denial. NOAA Fisheries is also relatively liberal in terms of how an appeal can be filed. ABSC believes that with these facts, the 30 day appeal period proposed by this action will not limit any quota holders ability to appeal a denial of IFQ or IPQ and is supportive of this change.

ABSC is also supportive of the action that would presume a person who maintained proof of timely filing for IFQ or IPQ actually did file in a timely manner. ABSC agrees that this modification is unlikely to affect any initial determination of filing. It will however, serve to remind quota holders to maintain proof of timely filing in case a dispute arises. This action could potentially streamline resolution of initial administrative decisions on appeal as noted in the analysis.

In summary, ABSC supports the Council taking final action at the April meeting on this agenda item and moving forward with all 3 options under Alternative 2.

Sincerely,



Edward Poulsen
Executive Director,
Alaska Bering sea Crabbers

Kale Garcia
01/14

**Kale Garcia
Co-President,
Crab Group of Independent Harvesters**

**Arni Thomson
Executive Director,
Alaska Crab Coalition**