

**D2 BSAI Crab Arbitration
Draft Council Motion
December 9, 2024**

The Council adopts the following Purpose and Need statement and alternatives for analysis.

Purpose and Need:

The Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Program was implemented in 2005. The viability of the BSAI crab fisheries for all participants is significantly affected by challenging global markets; poor marine ecosystem conditions for commercial crab species that have resulted in high annual uncertainty, fishery closures, and low TACs; and the challenging cost structure associated with processing severely reduced volume in remote communities. The original program regulations did not anticipate the level of processor quota shares that would be acquired by entities who do not own processing facilities and thus need to have active processors custom process their crab or the reduction in number of active crab processors that has occurred in recent years. The Council intends to consider limited revisions to the BSAI Crab Rationalization Program arbitration process and the annual individual fishing quota (IFQ) and individual processor quota (IPQ) application process to increase transparency, provide flexibility, and reduce program costs and burdens for participants without changing the overall program structure and objectives.

Alternative 1: Status Quo

Action alternatives are not mutually exclusive.

Alternative 2: Changes to the regulations governing the arbitration process

Options are not mutually exclusive.

Option 1. Remove the requirement that the arbitrator can only select a remedy proposed by one side. Allow the arbitrator to select an independent or compromise remedy based on the facts provided in the arbitration.

Option 2. Allow parties to receive the arbitrator's written report and rationale, as well as a publicly available report providing key rationale (without including confidential information).

Option 3. Remove the requirement for a market report.

Option 4. Remove the arbitration option for non-performance after a contract has been established to define BSAI crab price, delivery, or other terms.

Alternative 3. IFQ and IPQ application withdrawal

IFQ and IPQ applications can be withdrawn after being accepted by NMFS any time before BSAI crab rationalization species TACS are announced and within (option 1: 24 hours and option 2: 48 hours) after BSAI crab rationalization species TACs are announced.