



C3 Active Participation Requirements for Crab Crew Shares June 2023

Action Memo

Council Staff: Sarah Marrinan

Action Required:

1. Review Initial Review draft analysis
2. Consider revisions to purpose and need and/ or alternatives
3. Determine whether to move action forward and as Initial or Final review

BACKGROUND

In the Bering Sea Aleutian Islands Crab Rationalization (CR) program, three percent of the harvesting quota share is allocated as crew share (or C shares). The Council intended that C shares be available for those who are active captains or crew in CR Program fisheries. Since June 2018, in order to receive an annual allocation of C share Individual Fishing Quota (IFQ), the regulations require a C share quota share (QS) holder to have either:

- (1) participated as crew in at least one delivery in a CR Program fishery in the three crab fishing years preceding the crab fishing year for which the holder is applying for IFQ; or
- (2) if the individual was an initial recipient of C shares, participated as crew in at least 30 days of fishing in a commercial fishery managed by the of State of Alaska or a U.S. commercial fishery in Federal waters off Alaska in the three crab fishing years preceding the crab fishing year for which the holder is applying for IFQ.

If the C share holder does not meet this threshold for four consecutive crab years (which spans July 1-June 30), and they do not transfer it to an eligible individual in this timeframe, all C share QS held by that individual will be revoked. Current regulations establish a process by which the C share QS pool would remain at three percent of the IFQ total allowable catch, so all other C share holders would de facto receive slightly greater pounds of crab for harvest. The Council recommended revocation of C share QS if the QS holder continues to be inactive as an incentive for C share QS holders to divest, so that the QS is not held by inactive participants for extended periods of time.

Recent circumstances, including the COVID-19 pandemic, crab stock declines and subsequent closures, have made it difficult for all C share holders to achieve the required active participation. In addition, it is expected that future low TACs may create similar challenges for C share holders to achieve active participation requirements as prescribed in regulations. In this Initial Review analysis, the Council is considering options for exempting previous years which resulted in challenges due to COVID-19, a process for possible future exemptions, and other options to expand the opportunity to demonstrate active participation outside of the BSAI crab fisheries.

The following table provides a short timeline for the proposed action.

<p>June 2022</p>	<ul style="list-style-type: none"> • Council requested the Secretary of Commerce take emergency action to temporarily suspend the active participation requirement for C shares holders. • Council made a motion to adopt a purpose and need, set of alternatives and initiated an analysis to consider additional changes to the C share requirements. <hr/> <ul style="list-style-type: none"> • NMFS agreed the action met the criteria for emergency rulemaking. No C share IFQ was withheld and no C share QS was revoked at the start of the 2022/23 year.
<p>Oct 2022</p>	<ul style="list-style-type: none"> • NMFS Management report emphasized that due to the time needed to analyze and implement non-emergency rulemaking, additional exemptions (such as proposed in the Council’s Alternative 2, Option 1) would not be in place prior to the 2023/24 application deadline. Thus, C share holders that have not met the active participation requirements in recent years should attempt to participate in the upcoming season.
<p>April 2023</p>	<ul style="list-style-type: none"> • Staff prepared a memo requesting clarification on the Council’s policy focus including whether the need still existed given the emergency action taken, and if so whether the focus was exclusively previous years or also included possible future circumstances. Staff also reiterated the challenges with Alternative 2, Option 1 (which implies immediate action) and suggested the analysis could consider a process to reissue any C share QS that has been revoked prior to implementation of any C share amendments. • The Council responded with a motion that clarified an interest in maintaining the concept of active participation for C share QS in the CR Program, but also an interest in considering both past and future circumstances that may warrant exemptions or flexibility relative to the C share participation requirements. The Council’s motion offered several clarifications to current alternatives and additional concepts that may work towards the Council’s purpose and need for action. The Council requested the analysis provide information for these broader types of changes that may support its purpose and need. • In April 2023 there was not adequate public notification for the Council to change its purpose and need or alternative set; however, the Council indicated that it could refine its purpose and need and set of alternatives in response to this information at Initial Review.