



D2 Crab Binding Arbitration

December 2024 Council Meeting

Action Memo

Council Staff: Sarah Marrinan
Other Presenters: Darrell Brannan (Brannan & Associates)
Action Required: 1) Review Crab Binding Arbitration discussion paper
2) Recommend next steps, if desired

BACKGROUND

At the June 2024 meeting, the Council requested a discussion paper with information to help the Council consider whether potential changes to the Crab Rationalization Program (CR Program) arbitration system might be prudent to reduce industry costs, increase transparency, and predictably, and/or to respond to low crab Total Allowable Catches (TACs). In the [June motion](#), Council identified four issues of primary concern based on information presented in the 2024 CR Program Review and the associated public comments on that agenda item. The specific issues the Council asked staff to consider in the discussion paper are listed below.

1. Timing of joining an arbitration organization. Current regulations require annual membership by May 1 prior to the fishing year before any crab catch limits are set (including no TACs), which requires participants to incur costs to hire:
 - a. Share-matching agent
 - b. Contracted arbitrators
 - c. Market analyst and non-binding price formula arbitrator
2. Requirements of the binding arbitration system
 - a. Only harvesters (Class A Individual Fishing Quota [IFQ] holders) can initiate binding arbitration
 - b. The arbitrator must only select a remedy proposed by one side, they cannot select an independent or compromise remedy based on the facts provided in the arbitration
 - c. Ability for parties to receive the arbitrator's written report and rationale, as well as a publicly available report providing key rationale (without including confidential information).
3. Evaluate whether current regulations allow an individual processing quota (IPQ)/IFQ holder to withdraw their application for quota any time prior to the quota being issued.
4. Consider an alternate structure under low TAC levels in which binding arbitration would not apply, to remove the burden of the system in low TAC years while still providing stability and protection to both harvesters and processors.

The Council is anticipated to utilize the presented information and public comment on the issue to determine whether it wishes to initiate a more focused discussion paper or a regulatory package to modify current regulations. Once the Council has reviewed the discussion paper, the next steps could be no further action; request further information from staff in the form of another discussion paper; or initiate an analysis, which requires identifying a purpose and need statement and alternatives.