

Final Regulatory Impact Review / Initial Regulatory Flexibility Analysis

**For Amendment 31 to the Fishery Management Plan for Bering Sea and
Aleutian Islands King and Tanner Crabs**

Active Participation Requirements for the Acquisition and use of C Shares



March 2015

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Executive summary

In August of 2005, fishing in the Bering Sea and Aleutian Island crab fisheries began under a new share-based management program known as the Crab Rationalization Program (CR Program). The CR Program is unique in several ways, including the allocation of a portion of the harvest share pool to captains for exclusive use by captains and crew (C shares). Under the program, individuals holding C share individual fishing quota (IFQ) are required to be onboard the vessel harvesting those IFQ. C share quota share (QS) holders who choose to join a cooperative are exempt from this requirement, however. In addition, to acquire C shares a person must have actively participated in a fishery subject to the program during the preceding 365 days. At its June 2007 meeting, based on public testimony and input from the Advisory Panel, the North Pacific Fishery Management (Council) directed staff to analyze elements and options revising the active participation requirements for C share acquisition and use.

Purpose and need statement

The Council has adopted the following the Purpose and Need Statement for this action:

Owner on board requirements and leasing prohibitions on C shares are scheduled to go into effect after the third year of fishing under the program. Those rules may be overly burdensome to active captains and crew given the current fleet fishing patterns in which vessels may not be active in all fisheries some years. Also, under the current rules in the program, C shareholders that are cooperative members are exempt from owner on board requirements and leasing prohibitions. Revisions to the current participation requirements are necessary to establish reasonable participation requirements for C shareholders and to ensure that the all C shareholders remain active in the fisheries.

The current requirement that a person have participated in the fishery during the 365 days preceding an acquisition of C shares has the effect of preventing some displaced long-time captains and crew from acquiring share holdings to secure or maintain positions in the fisheries. A revision to the current requirements for active participation could address this problem by providing long-term participants with the opportunity to acquire shares.

Alternatives to modify active participation requirements for persons wishing to acquire C shares during the current transition (provisions not included in the preferred alternative are shown with strikeout):

Alternative 1 (Status quo)

Alternative 2

For a period of

- ~~a. 5 or 7 years from the implementation of the program, or~~
- b. 4 years from the implementation of this amendment,

C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historical participation), and
- 3) received an initial allocation of C shares.

Alternative 3

For a period of

- ~~a. 5 or 7 years from the implementation of the program, or~~

b. 4 year from the implementation of this amendment

C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historical participation), and
- 3) demonstrates participation in the BSAI rationalized crab fisheries during
 - i. 3 of the 5 seasons
 - ii. ~~2 of the 3 seasons,~~immediately preceding implementation of the rationalization program.

Alternatives for revision of active participation requirements for C shareholders:

Alternative 1 (Status quo)

Alternative 2

To receive an annual allocation of IFQ, a C shareholder must:

have participated in at least one delivery in a fishery subject to the crab rationalization program in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ, or

Suboption: have received an initial allocation of C shares and participated in 30 days of State of Alaska or Alaska Federal fisheries in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ.

No IFQ will be withheld until 3 years after implementation of this amendment.

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that the portion of the TAC available to active C shareholders is equivalent to the C share portion of the fishery as established by the Council (currently 3 percent).

Alternative 3

A C shareholder who does not meet one of the following active participation criteria will have all C share QS holdings revoked:

The person must have participated in at least one delivery in one of the rationalized crab fisheries in the preceding:

- a. 4 seasons (i.e., crab fishing years) or
- b. ~~5 seasons (i.e., crab fishing years).~~

Suboption: The person must have received an initial allocation of C share QS and have participated in 30 days of fishing in State of Alaska or Alaska federal fisheries in the preceding

- a. 4 seasons (i.e.; crab fishing years)
- b. ~~5 seasons (i.e., crab fishing years).~~

No QS will be revoked before 5 years from implementation of this amendment.

No prohibition on leasing C shares will apply.

~~Suboption: Persons who received an initial allocation of C share QS and are 60 years of age or older on the date of implementation of this amendment are exempt from active participation requirements. This exemption is limited to initially issued QS (i.e., not purchased QS).~~

Analysis of Alternatives

Status quo

Under the status quo, to acquire C shares a person must be an individual with at least 150 days of sea time in a harvest capacity in a U.S. commercial fishery and have been active in one of the rationalized crab fisheries in the preceding 365 days. Participation is defined as being on board a vessel as either captain or crew during at least one landing. Under this standard, captains and crew displaced by fleet contraction, who have not found a position in one of the fisheries, would not be permitted to acquire C shares, until participating in a landing. Based on the fleet contraction that occurred in the first 2 years of the program, it is likely that as many as two-thirds of the persons that would have met this standard prior to the implementation of the program would not currently meet the standard.

Initial allocations were made only to state permit holders (generally captains), who met specific historical and recent participation requirements as permit holders. Of the 239 permit holders who received initial allocations of C shares, less than 100 are estimated to have remained active as card holders in the years since the inception of the CR Program. Data showing activity as crew are not available. It is possible that additional recipients of initial allocations were active as crew, but it is believed that most captains who have not retained a position as captain are not active in the fisheries. Under the status quo, inactive persons, including recipients of an initial allocation, would not be able to acquire additional C shares.

Two sets of persons active on vessels in the fisheries prior to implementation of the rationalization program did not receive an initial allocation. Captains that did not meet both the historical and recent participation criteria did not receive initial allocations. Comparing the number of recipients of initial allocations with the number of active vessels in the fisheries, it appears that captains of at least 25 vessels active in the fisheries in the 5 years preceding implementation of the program did not receive an initial allocation. In addition, no crew, regardless of their record of participation, received initial allocations. Based on the difference in the number of vessels participating in the fisheries prior and subsequent to implementation of the rationalization program, at least 750 former crew who were active in the 5 years preceding implementation of the program are no longer active in the crab fisheries.¹ Together, in excess of 900 persons active in the 5 years prior to implementation of the rationalization program appear to be no longer active in the fisheries. These persons include inactive initial recipients of shares, inactive captains (who did not receive an initial allocation), and inactive crew. Any of these persons that did not secure a position on a vessel in the fisheries after the program was implemented would not be permitted to acquire C shares under the existing active participation requirements.

A few different influences could motivate the purchase of shares by persons no longer active in the fisheries. Some of these persons could view share holdings as providing a potential avenue to reemployment in the fisheries. These persons may believe that share holdings could improve their chances of gaining employment in the fisheries. If a vessel owner views a potential crewmember's share holdings as an indication of that person maintaining a long term interest in the fishery, that vessel owner could be induced to hire the person over other applicants that have no share holdings. In addition, some persons who have had extended careers in the fisheries could also view C share holdings as a reasonable means of maintaining an interest in the fisheries. These persons may accept being displaced from employment in the fisheries, but wish to maintain a long term interest in the fisheries. Under the status quo, these persons would not be permitted to acquire C shares.

¹ This estimate is based on the assumption that each vessel employs five crew (excluding the captain).

Alternatives to change eligibility to acquire C shares

The action includes two alternatives, defining persons receiving transitional eligibility to acquire C shares, both of which are included in the preferred alternative. One alternative would create eligibility for persons that received initial allocations of C share QS. The other alternative would create eligibility for persons who demonstrated threshold participation in the years preceding implementation of the program. NMFS had previously estimated that less than 100 people who received an initial allocation under the CR Program are still active as card holders. These persons would all be eligible to acquire C shares under the first alternative under consideration. While the alternative to extend transitional eligibility to recipients of initial allocations of C shares would address their concern, the provision will not help certain persons (i.e., small entities) that may be similarly aggrieved under the current active participation requirements.

The second alternative would allow persons who participated in at least one of the rationalized fisheries during either 3 of the 5 years preceding implementation of the rationalization program, or 2 of the 3 years preceding the rationalization program, to purchase C shares. The preferred alternative creates eligibility for persons who demonstrated activity in 3 of the 5 years preceding implementation of the program. Since participation records for crew are not available, estimates of eligibility under this provision are not possible. Examining vessel participation patterns, however, provides some basis for assessing the potential effects of the provision. A total of 255 vessels participated in at least 3 of the 5 years immediately preceding the rationalization program, while 253 participated in at least 2 of the 3 years immediately preceding program implementation. Assuming consistent crew participation on these vessels, these data suggest that approximately 1,500 crew (including captains) may meet these eligibility criteria. If the persons who received initial allocations of C shares that are currently active are assumed to be among those meeting the participation criteria, then approximately 800 persons would be eligible to acquire C shares under this provision. If it is assumed that the currently active captains and crew are among these people, approximately 900 persons may qualify under this alternative (excluding initial recipients who are no longer active in the fisheries).

Two competing effects are likely to arise from these provisions expanding eligibility to acquire C shares. First, persons provided eligibility by the provision who wish to purchase shares could benefit from the ability to compete for their purchase. The benefit to those receiving transition eligibility and the effects on the market for C shares could be influenced by other factors. Most importantly, the rules governing C share use will affect whether persons with transitional eligibility will benefit from that eligibility. Specifically, if C shareholders are required to be active in the crab fisheries to receive IFQ allocations (as is addressed in the second part of this action) or are required to divest after a period of inactivity, transitional eligibility could have little effect on persons receiving that eligibility.

The competing effect of the transitional eligibility will be felt by persons active as captains and crew in the fisheries. Persons currently participating in the fisheries as captain and crew are likely to be disadvantaged by an increase in competition for C shares that could arise from providing transition eligibility to persons no longer active in the fisheries. If only initial recipients of C shares are given eligibility, approximately 150 additional persons would be eligible to acquire C shares. Under the current action, more than 600 persons are likely to be eligible to acquire C shares. So, the pool of eligible persons could increase by as much as 25 percent under the option that would grant eligibility to initial recipients of C shares. However, the Council selected the broader alternative that grants eligibility to persons meeting participation thresholds for the years prior to implementation of the program, therefore eligibility could be granted to substantially more persons. Under such a provision the number of persons who could acquire C shares would more than double from the current level (if crew participation patterns are similar to vessel participation patterns). Although the pool of eligible persons would expand substantially, the change in competition for C shares is uncertain. Many of the persons eligible under these provisions are unlikely to attempt to acquire C shares, as most are unlikely to attempt to reenter the fisheries by

acquiring shares. Whether entry to the market by persons eligible under this provision will affect the cost of shares and the ability of currently active captains and crew to purchase shares is not known.

The Council has elected to consider three options defining the term of the transitional eligibility to acquire C shares. That eligibility could extend for 5 or 7 years from implementation of the program or for 4 years from implementation of this action. The preferred alternative would extend eligibility from 4 years from implementation of this action. Since this action will not be implemented prior to the 2012 season, the options to extend transitional eligibility for 5 or 7 years from program implementation will not provide any change from the status quo. The 4-year eligibility period could dissipate the market impact of qualifying additional persons, but a 4-year period is a relatively short period of time during which additional persons in the market could be noticeable.

The effects of alternatives to provide transitional eligibility on managers are expected to be relatively minor. Under the current eligibility provisions, a participant can demonstrate activity as a permit holder on a fish ticket or through affidavits of vessel owners. These (with other additional forms of evidence) could also be used to show participation under the options for this action. The applications would be required to be slightly more extensive than the existing forms (requiring several years of participation instead of a single year's activity as required under the current rules), but would effectively use the same (or similar) evidence. In addition, since the transitional eligibility would only apply for a period of years, the added burden of accommodating persons receiving that eligibility would be only for the period of the provision. The enforcement burden arising out of this revision would also be relatively minor. Although a substantial number of persons could become eligible from this provision, the general approach to enforcement would be to pursue any case of possible inappropriate applications. Although this could result in a larger number of cases, the potential number of cases would be limited by the number of persons applying for eligibility and the potential for persons to misrepresent their prior fishing activity. Although some misreporting is possible, it is not believed that a substantial number of persons misreporting fishing history to create transitional eligibility will result.

Effects of provisions revising active participation requirements for C shareholders

The second part of this action considers revision of the rules governing active participation requirements of C shareholders.

Status quo

Under the status quo, individuals who hold C share IFQ are required to be on board the vessel harvesting those IFQ. If a C shareholder joins a cooperative, the IFQ are allocated to the cooperative, effectively removing the onboard requirement with respect to those IFQ. This disparate treatment of individual C shareholders and C shareholders who are cooperative members has several effects. First, the incentive for a C shareholder to join a cooperative is increased by relief from the owner on board obligation. Second, to the extent that the current rule is intended to ensure C shareholders are on board when their IFQ holdings are harvested, the rule is likely ineffective. Data are unavailable to show the extent to which C shareholders are onboard for the harvest of their IFQ; however, card holder activity suggests that a large majority of the permit holders who received an initial allocation of C shares are no longer active as captains.

In the long run, as active C shareholders retire from captain and crew positions, it can be expected that many may elect to continue to remain members of cooperatives and retain their C share holdings through established relationships. Over time, the retirement of active C shareholders from crab fishing jobs will contribute to a reduction in the number of C shareholders active in the fisheries. Some C shareholders can be expected to remain, particularly as new acquisitions will only be permitted by persons active in the crab fisheries. Yet, at any one time, a large portion of the C share pool could be held by persons that are not active as captains or crew.

An additional effect of the current participation requirements is that the market for C shares could be less fluid. If only active captains and crew are permitted to receive benefits from C shares, it is likely that the market for these shares will be more active, since persons who retire or exit from captain and crew positions will transfer shares. Without this requirement for active participation, it is likely that C shares will be held persons who have left their captain and crew positions and participate as cooperative members. The added flexibility for C shareholders allowed through the absence of active participation requirements for cooperative members could also increase the value of C shares. Whether a price increase is observed depends on whether the absence of active participation requirements for cooperative members under the status quo reduces supply of C shares in the market.

Alternatives to change active participation requirements for C shareholders

Two alternatives, both of which are included in the preferred alternative, that would change the active participation requirements for C shareholders were considered. Under the first alternative, C share QS holders who have not participated in at least one of the crab fisheries for a period of three consecutive years would not receive an annual allocation of IFQ. Examining activity of C shareholders a three year period (i.e., 2007/2008 through 2009/2010) provides some perspective on the effects of this provision. Less than half of the 207 C shareholders in the fisheries are estimated to have participated as card holders (i.e., captains) during this period. Whether these C shareholders were active as crew is not known. Those who remain inactive for a period of three consecutive years would not receive IFQ allocations under the first option. The share of the C share QS pool held by persons inactive as card holders is a substantial (and in some cases a majority) of the C share QS pool.

Whether this drop is an actual decline in C shareholder activity is not known. It is possible that some C shares have been acquired by crew (other than captains) who are less likely to be card holders. It is also notable that the percent of the C share QS pool held by persons active as card holders dropped in all fisheries. Again, the extent to which this observed decline represents an actual decline in active participation by holders of C share QS or a change in the composition of C shareholders (from captains to crew) is not known.

An option included in the preferred alternative would allow persons who received an initial allocation of C share QS, but who are not active in the crab fisheries, to receive annual IFQ allocations, provided they have at least 30 days of participation in State of Alaska fisheries or federal fisheries off Alaska in the 3 years preceding the allocation. This more liberal approach to active participation requirements for C share QS holders would provide substantially greater opportunities for people who received initial allocations of C share QS to receive annual allocations of C share IFQ. Crew data for fisheries off Alaska are incomplete, limiting the accuracy of any estimates of crew participation. Based on available data, upwards of 30,000 persons may have participated in these fisheries in 2009. In addition, 95 persons who received an initial allocation of C shares have participated in fisheries off Alaska as a permit holder (i.e., typically, as a captain) between the 2007/2008 and 2009/2010 seasons. This provision will clearly expand the opportunity for the persons who received an initial allocation of C share QS to continue to receive annual IFQ allocations by meeting the 30-day participation requirement for the preceding 3-year period.

Under the current rules, approximately 3 percent of the QS pool is allocated as C share QS. If these IFQ allocations are not made to C share QS holders who are not active, it is possible that the C share IFQ allocation could be reduced by as much as 50 percent (i.e., C share IFQ would total approximately 1.5 percent of the total IFQ pool, instead of 3 percent). To ensure the C share IFQ pool remains at the percentage intended by the Council, an option is included in the preferred alternative that would maintain the C share IFQ issuance at the percentage set by the Council (which is currently 3 percent). Under this provision, the agency would annually allocate 97 percent of the IFQ pool to vessel owners and 3 percent of the IFQ to holders of C shares. The 3 percent allocation to C shareholders would be allocated only to C share QS holders that meet the active participation requirements based on their respective C share

holdings. By separating the calculation of IFQ allocations to C share QS holders from allocations of IFQ to vessel owner QS holders, the allocation of IFQ to C share QS holders would be maintained at 3 percent of the total IFQ pool regardless of whether some C share QS holders do not receive IFQ allocations because of their failure to meet active participation requirements. This approach to allocations could be justified, if the Council believes that the 3 percent IFQ allocation to active captains and crew should be maintained, regardless of whether some C share QS holders fail to meet the requirements for an annual allocation. If the Council later chose to change the size of the C share IFQ allocation, this provision would be implemented by maintaining the C share IFQ allocation as the percentage of the total IFQ pool identified by the Council.

The withholding of annual IFQ allocations from C share QS holders not meeting active participation requirements is complemented in the preferred alternative by a provision that would revoke C share QS, if active participation requirements are not met for a period of 4 consecutive years. An option to revoke after 5 years of activity was not selected for inclusion in the preferred alternative. The rationale for revoking C share QS is that holders who are inactive for an extended period effectively withhold these shares from other active captains and crew, who might wish to develop or expand their C share holdings. Failing to revoke these shares, it is possible that some C shareholders may maintain their holdings for an extended period. The incentive for inactive C shareholders divesting their QS, absent a pending revocation, could be rather minor, especially for persons who received their C share QS in the initial allocation. Precise estimates of the number of C share QS holders and quantities of C share QS that could be affected by this action are not available. Estimates of the number of C share QS holders that would not receive annual IFQ allocations may also be viewed as preliminary estimates of the number of persons that could be affected by this provision.

This alternative also contains options that would extend the time prior to which it takes effect. Under the options, no revocations would occur until either 5 or 10 years after implementation of the program or 5 years after implementation of this amendment. The provision that would not revoke any shares until 5 years after implementation of this action was selected for inclusion in the preferred alternative. Delaying implementation of the provision is intended to allow participants time to assess the transition of the fisheries under the new management to determine whether they will be active in the fisheries. Extending the grace period for revocations beyond 5 years would provide additional time (up to approximately 7 years notice if the “10 years from program implementation” option were selected) for persons to decide whether to divest of their shares, become active, or have those shares revoked. The option to begin revocations 5 years after the amendment is implemented provides greater certainty concerning the effect of the action, since implementation timing depends on the completion of the regulatory process. Any of the proposed implementation timelines should provide sufficient notice to C shareholders to allow them to prepare for implementation of the provision. Although these shareholders might be able to plan for implementation of the provision, the more compressed timeline (5 years after implementation) could have some ramifications for C shareholders and those wishing to acquire C shares.

Implementation of either of the alternatives revising active participation requirements for C shareholders is likely to be challenging administratively and logistically. Effective implementation of a provision to withhold IFQ must include a process for submission of documentation of participation and an opportunity for appeal to the person whose IFQ is withheld. Until the finding that IFQ may be withheld is final, IFQ would need to be reserved to ensure shares are available in the event the C share QS holder prevails. Typically, NMFS makes all allocations of IFQ at one time. To effectively withhold IFQ and redistribute that IFQ to others in the fishery requires that decisions concerning eligibility to receive IFQ be finalized prior to the allocation of any IFQ.

After the Council adopted Amendment 31, the Council adopted a regulatory amendment at its April 2011 meeting that, if approved by the Secretary of Commerce, would establish an earlier deadline for filing

annual IFQ, individual processing quota (IPQ), and crab harvesting cooperative IFQ applications (from August 1 to June 15), and shorten the amount of time in which to appeal an initial administrative determination to withhold issuance of IFQ or IPQ (from 60 to 30 days). These changes alter the timeline and process that NMFS would use to implement the active participation requirements that were previously provided. The following explains the timeline and process that NMFS would follow to implement the active participations requirements.

To ensure that C share QS holders annually state whether they participated in crab fisheries or commercial fisheries within the State or Federal waters, the IFQ application would be modified to include a “statement of participation”. In short, a new block would be added to the annual IFQ application that would ask C share applicants to state whether the applicant had been active as defined by regulation in the crab fishing year preceeding the year for which the applicant is applying. Applications for C share IFQ would be considered incomplete if the applicant fails to complete the statement of participation block. To be complete, the applicant would be required to include evidence demonstrating participation with the application (such as an affidavit from a vessel owner or other person on the vessel or a fish ticket evidencing a landing made as a permit holder) if the applicant answers YES to participation.

Under the proposed regulatory amendment, a person would be required to apply for IFQ on June 15. Ideally, the proposed submission deadline should allow time for the agency to (1) inform applicants that their application is either incomplete or that the applicant has failed to meet the 3-year participation requirements, (2) allow the applicant 30 days in which to submit information to complete the application or demonstrate the required participation, (3) issue an initial administrative determination (IAD) if the additional information fails to demonstrate participation or the applicant fails to submit additional information within the 30-day period, and (4) possibly resolve an appeal of the IAD prior to issuance of IFQ for the fisheries. Moving the IFQ application deadline to June 15 and shortening the time in which to appeal would allow the agency to finalize some findings of failure to meet the active participation requirement, particularly those who do not appeal that finding, prior to IFQ issuance.

The option to maintain C share IFQ as a specific portion of the IFQ pool (currently 3 percent) would be implemented by identifying the pool of C share QS that will receive IFQ, and allocating 3 percent of the total allowable catch (TAC) in the CR program to those IFQ. Under the current system, C share QS is approximately 3 percent of the total QS pool, with division of the annual IFQ allocations between C share IFQ and owner IFQ generally close to the QS pool split. If a substantial amount of the C share IFQ is not issued because of failure of C shareholders to meet active participation requirements, it is possible that C shares could be substantially less than 3 percent of the IFQ allocation. Finalizing determinations of active participation prior to IFQ issuance is critical to this provision having its intended effect.

Implementing the alternative to revoke shares from persons not meeting active participation requirements for a period of years could be implemented using the same process as used for implementing the requirements for IFQ allocations. The annual submissions of active participation could be used to determine whether a person’s shares should be revoked by considering activity in the requisite number of years preceding the submission of the most recent statement.

The overall effect of the C share IFQ eligibility and the C share QS revocation provisions is that, over time, C share QS will be held by persons meeting the minimum participation threshold specified by the applicable provisions. Persons who hold C share QS, but do not meet the applicable participation threshold, will either divest of their C share holdings (or, if the revocation provision is adopted and they fail to divest, have their shares revoked). These persons (including persons intended to benefit from the initial allocation) will have an opportunity to receive a benefit from their C share QS holdings through the sale of that QS to persons eligible to acquire those shares. Although the provisions governing eligibility to acquire C shares and the provisions limiting those who may receive C share IFQ and retain C share QS

holdings will affect the pool of persons in the C share market as buyers, a substantial number of persons are likely to be eligible and interested in C share acquisition. As a result, the C share QS prices are likely to be lower than owner QS prices, but a market for those shares likely will exist.

The Council has also included for consideration an option to exempt persons who received an initial allocation of C shares and who are over 60 years of age, from any active participation requirements applicable to any C share QS received in the initial allocation. So, persons meeting these criteria would not be required to participate in any fisheries, as captain or crew, to continue to receive C share IFQ from their initial allocation of C share QS or to retain C share QS holdings received in the initial allocation. Data are not available to determine the specific number of persons who would qualify for this exemption, but the number is limited, since only persons who currently hold C share QS received in the initial allocation would qualify for this provision. A large majority of the current C share QS holders in each fishery received initial allocations of C shares, but several may not qualify for the exemption based on their ages.

The Council's rationale for considering this exemption is not clear. If adopted, it would appear that the Council would be interested in ensuring that older initial recipients of C share QS are able to retain that QS and derive annual allocations from it. The rationale for applying an age limit to the exemption is not apparent. Stock fluctuations would appear to make crab QS a relatively risky investment. Increasing the incentive for older people to retain risky interests would appear to run counter to investment norms. If the objective is to prevent inactive persons from losing annual allocations or being required to sell very soon after receiving the initial allocation, the length of the grace period during which application of revocation is suspended could be extended and a grace period could be applied to eligibility to receive IFQ. These grace periods could benefit initial recipients of C share QS by increasing the value of that QS, particularly if stock growth increases TACs or leads to opening of fisheries that have been closed in recent years. On the other hand, stock and TAC declines could pose a risk of loss to QS holders.

Net benefits to the Nation

Although the changes this action will have are principally distributional effects on persons holding or interested in holding C shares, it will not affect production from the fisheries. As a consequence, this action is likely to have a small, but positive effect on net benefits to the Nation.

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1 Introduction

In August of 2005, fishing in the Bering Sea and Aleutian Island crab fisheries began under a new share-based management program known as the Crab Rationalization Program (CR Program). The CR Program is unique in several ways, including the allocation of a portion of the harvest share pool to captains for exclusive use by captains and crew (C shares). Under the program, individuals holding C share IFQ are required to be onboard the vessel harvesting those IFQ; however, C share QS holders who choose to join a cooperative are exempt from this requirement. After the third year of the program, leasing of C shares is prohibited. In addition, to acquire C shares a person must have actively participated in a fishery subject to the program during the preceding 365 days. At its June 2007 meeting, based on public testimony and input from the Advisory Panel, the Council directed its staff to analyze elements and options revising these active participation requirements for C share acquisition and use.

This document contains a Regulatory Impact Review (Section 2) and an Initial Regulatory Flexibility Analysis (Section 3) of alternatives to modify the active participation requirements for the acquisition and use of C shares. Section 4 contains a discussion of the Magnuson-Stevens Fishery Conservation and Management Act National Standards and a fishery impact statement.²

This document relies on information contained in the Bering Sea/Aleutian Islands Crab Fisheries Final Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis/Social Impact Assessment (NMFS/NPFMC, 2004). Throughout this analysis, that document is referred to as the “Crab EIS.”

2 Regulatory Impact Review

This chapter provides an economic analysis of the action, addressing the requirements of Presidential Executive Order 12866 (E.O. 12866), which requires a cost and benefit analysis of federal regulatory actions.

The requirements of E.O. 12866 (58 FR 51735; October 4, 1993) are summarized in the following statement from the order:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866 further requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

² The proposed action is a minor change to a previously analyzed and approved action and the proposed change has no effect, individually or cumulatively, on the human environment (as defined in NAO 216-6). The action only addresses changes in eligibility to purchase, retain, or receive annual allocations from shares and will have no effect on the human environment, beyond those examined in the environmental impact statement.

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

2.1 Purpose and Need Statement

The Council has adopted the following the Purpose and Need Statement for this action:

Purpose and need for alternatives to address active participation requirements for persons wishing to acquire C shares during the current transition:

The current requirement that a person have participated in the fishery during the 365 days preceding an acquisition of C shares has the effect of preventing some displaced long-time captains and crew from acquiring share holdings to secure or maintain positions in the fisheries. A revision to the current requirements for active participation could address this problem by providing long-term participants with the opportunity to acquire shares.

Purpose and need statement for alternatives to revise active participation requirements for C shareholders:

Owner on board requirements and leasing prohibitions on C shares are scheduled to go into effect after the third year of fishing under the program. Those rules may be overly burdensome to active captains and crew, given the current fleet fishing patterns in which vessels may not be active in all fisheries some years. Also, under the current rules in the program, C shareholders that are cooperative members are exempt from owner on board requirements and leasing prohibitions. Revisions to the current participation requirements are necessary to establish reasonable participation requirements for C shareholders and to ensure that all C shareholders remain active in the fisheries.

2.2 Description of Alternatives

The Council has identified the following alternatives for this action:

Alternatives to modify active participation requirements for persons wishing to acquire C shares during the current transition:

Alternative 2 (provisions not selected are shown with strikeout)

For a period of

- ~~a. 5 or 7 years from the implementation of the program, or~~
- b. 4 years from the implementation of this amendment,

C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historical participation), and
- 3) received an initial allocation of C shares.

Alternative 3 (provisions not selected are shown with strikeout)

For a period of

- ~~a. 5 or 7 years from the implementation of the program, or~~
- b. 4 year from the implementation of this amendment

C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historical participation), and
- 3) demonstrates participation in the BSAI rationalized crab fisheries during
 - i. 3 of the 5 seasons
 - ~~ii. 2 of the 3 seasons,~~immediately preceding implementation of the rationalization program.

Alternatives for revision of active participation requirements for C shareholders:

Alternative 2

To receive an annual allocation of IFQ, a C shareholder must:

have participated in at least one delivery in a fishery subject to the crab rationalization program in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ, or

Suboption: have received an initial allocation of C shares and participated in 30 days of State of Alaska or federal fisheries off Alaska in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ.

No IFQ will be withheld until 3 years after implementation of this amendment.

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that the portion of the TAC available to active C shareholders is equivalent to the C share portion of the fishery, as established by the Council (currently 3 percent).

Alternative 3 (provisions not selected are shown with strikeout)

A C shareholder who does not meet one of the following active participation criteria will have all C share QS holdings revoked:

The person must have participated in at least one delivery in one of the rationalized crab fisheries in the preceding:

- a. 4 seasons (i.e., crab fishing years) or
- ~~b. 5 seasons (i.e., crab fishing years).~~

Suboption: The person must have received an initial allocation of C share QS and have participated in 30 days of fishing in State of Alaska or Federal fisheries off Alaska in the preceding

- a. 4 seasons (i.e.; crab fishing years)
- ~~b. 5 seasons (i.e., crab fishing years).~~

No QS will be revoked before 5 years from implementation of this amendment.

No prohibition of leasing C shares will apply.

~~Suboption: Persons who received an initial allocation of C share QS and are 60 years of age or older on the date of implementation of this amendment are exempt from active participation requirements. This exemption is limited to initially issued QS (i.e., not purchased QS).~~

2.3 Existing Conditions

This section describes the relevant existing conditions in the crab fisheries. The section begins with a brief description of the management of the fisheries under the rationalization program, followed by descriptions of the harvesting and processing sectors in the fisheries. The description of the harvesting sector includes information concerning captains and crew and the allocations of C shares necessary to understand the conditions in the fishery related to this action.

2.3.1 Management of the fisheries

The following nine crab fisheries are managed under the rationalization program:

- Bristol Bay red king crab,
- Bering Sea snow crab,
- Eastern Bering Sea Tanner crab,
- Western Bering Sea Tanner crab,
- Pribilof red and blue king crab,
- Saint Matthew Island blue king crab,
- Western Aleutian Islands red king crab,
- Eastern Aleutian Islands golden king crab, and
- Western Aleutian Islands golden king crab.

Under the program, holders of license limitation program permits endorsed for a crab fishery were issued vessel owner QS, which are long term shares, based on their qualifying harvest histories in that fishery. Catcher processor license holders were allocated catcher processor vessel owner QS for their history as catcher processors; catcher vessel license holders were issued catcher vessel QS based on their history as a catcher vessel. QS annually yield IFQ, which are privileges to harvest a particular amount of crab, in pounds, in a given season. The size of each annual IFQ allocation is based on the amount of QS held in relation to the QS pool in the fishery. So, a person holding 1 percent of the QS pool would receive IFQ to harvest 1 percent of the annual TAC in the fishery. Ninety percent of the catcher vessel owner IFQ are issued as “A shares” or “Class A IFQ,” which must be delivered to a processor holding unused individual processor quota (IPQ).³ The remaining 10 percent of these annual IFQ are issued as “B shares” or “Class B IFQ,” which may be delivered to any processor.⁴ Processor quota shares (PQS) are long term shares issued to processors. These PQS yield annual IPQ, which represent a privilege to receive a certain amount of crab, harvested with Class A IFQ. IPQ are issued for 90 percent of the TAC, creating a one-to-one correspondence between Class A IFQ and IPQ.⁵

In addition to processor share landing requirements, Class A IFQ (along with IPQ) are subject to regional landing requirements, under which harvests from those shares must be landed in specified regions. The following regional designations are defined for the different fisheries in the program:

³ Currently, C shares are excepted from this generalization. Those shares are not subject to IPQ landing requirements.

⁴ The terms “A share” and “Class A IFQ” are used interchangeably in this paper, as are the terms “B share” and “Class B IFQ.”

⁵ Although 90 percent of IFQ issued each year are issued as A shares, individual allocations can vary from 90 percent. Holders of PQS and their affiliates receive IFQ allocations as A shares and are not allocated B shares. The rationale for issuing only A shares to PQS holders and their affiliates is that these persons do not need the extra negotiating leverage derived from B shares. To maintain 10 percent of the IFQ pool as B shares requires that unaffiliated QS holders receive more than 10 percent of their allocation as B shares (and less than 90 percent A shares).

Bristol Bay red king crab – North/South division at 56°20'N latitude
Bering Sea snow crab – North/South division at 56°20'N latitude
Eastern Bering Sea Tanner crab – none (or undesignated)
Western Bering Sea Tanner crab – none (or undesignated)
Pribilof red and blue king crab – North/South division at 56°20' N latitude
Saint Matthew Island blue king crab – North/South division at 56°20'N latitude
Western Aleutian Islands red king crab – South of 56°20'N latitude
Eastern Aleutian Islands golden king crab – South of 56°20'N latitude
Western Aleutian Islands golden king crab – undesignated and West of 174°W longitude

The A share/B share allocation structure has the effect of limiting market choices of participants, since only the 10 percent allocation of B shares are free to be sold to any buyer. Under this structure, the 90 percent A share allocation (with corresponding IPQ) is intended primarily to add stability to the processing sector, and provide a means for compensated removal of processing capacity from the fisheries. The 10 percent B share allocation is intended to provide negotiating leverage to harvesters, an opportunity for entry to the processing sector, and a check on the processing market (by providing a negotiated market price).⁶ To aid participants in resolving price disputes relative to A share landings, the Council developed a binding arbitration program. The arbitration program is established through a set of private contracts that must meet requirements set out in the regulation. Holders of Class A IFQ and holders of IPQ must join arbitration organizations. These organizations, in turn, must enter contracts that define the arbitration program and select arbitrators. The arbitration program is an elaborate structure that serves several functions, including establishing a system for more orderly matching of Class A IFQ with IPQ, developing a market report and non-binding price formula to inform price negotiations, and providing a binding arbitration process to resolve impasses in negotiations.

Under the rationalization program, 97 percent of the initial allocation of QS was allocated to vessel owners. Vessel owner shares may be acquired by any individual who is a U.S. citizen with at least 150 days of sea time in a harvest capacity in a U.S. commercial fishery. Corporations and partnerships can also acquire these shares provided a U.S. citizen who meets the 150-day sea time requirement owns at least 20 percent of the corporation. The remaining three percent of the initial allocation of QS was issued to captains as “C shares,” based on their harvest histories as captains. C share allocations are subject to management provisions not applicable to owner shares to ensure that active fishermen receive the benefits of those shares. C shares may only be acquired by individuals who meet the sea time requirement and are active in the fisheries, where ‘active’ is defined as having participated in a landing within 365 days of the share acquisition. An owner-on-board provision and leasing prohibition are also applied to C shares, intended to ensure that C shares would benefit active captains and crew. The Council recognized that logistical complications would likely arise early in the program, as a result of the interaction of owner-on-board requirements, leasing prohibitions, fleet contraction, and the landing requirements on A shares. To aid in overcoming these complications, the Council originally exempted C shares from the landing requirements of A shares and prohibitions on leasing for the first three seasons under the program (see 50 CFR 680.41(e)(3) and 50 CFR 680.42(b)(6) and (c)(5)).⁷ After three years, the Council extended the exemption for C shares, through Amendment 26 to the FMP, from the landing requirement indefinitely

⁶ It should be noted that the limitation on the market resulting from the 90 percent A share/IPQ allocation dampens the market for B share landings by limiting the size of the open market for landings. So, the B share price (while providing an indication of the free market price) may not reflect the price that would exist in the absence of the A share/IPQ allocations.

⁷ Although the owner-on-board exemption is not explicitly created, by allowing leasing of C share IFQ, a holder of those shares is effectively relieved of the owner-on-board requirement.

(73 FR 35084, June 20, 2008). Since the arbitration system applies only to A shares, the exemption of C shares from the 90/10 A share/B share split effectively exempts C share from the arbitration system.

Holders of harvest shares are permitted to form harvest cooperatives to coordinate the harvest of their allocations. If a harvester chooses to join a cooperative, the annual allocation of IFQ is made to the cooperative and fished in accordance with the cooperative agreement. To ensure captains and crew are an integral part of the overall fishery, C shareholders are permitted to join cooperatives (see 50 CFR 680.21(a)(1)). As incorporated into regulation, this provision effectively removes any prohibition on leasing of and owner-on-board requirements for C shares. Once a C share QS holder joins a cooperative, any IFQ are allocated to the cooperative. So, after the third season of fishing under the program, the leasing prohibition will apply, but only to individual holders of C share IFQ; separate use provisions apply to IFQ held by a cooperative (see 50 CFR 680.21(c)(2)).

2.3.2 The harvest sector

Under the rationalization program, QS are allocated in two types. Owner shares are allocated for 97 percent of the fishery; crew shares are allocated for the remaining 3 percent of the fishery. Both share types are divided among catcher vessels and catcher processors, depending on the type of operation that led to the initial allocation. Catcher vessel QS carry regional designations, which apply to annual allocations of Class A IFQ. The distribution of QS holdings among these share types varies substantially across fisheries (see Table 2-1 and Table 2-2). The regional distribution of shares differs with landing patterns that arise from the geographic distribution of fishing grounds and processing activities. In general, crew share holdings are more concentrated than vessel owner shares. This concentration arises both from the initial allocation and from consolidation that has occurred since. Annual harvest allocations are also issued in various classes (see Table 2-3), which limit the operation type and define shareholder type and applicable landing restrictions.

Prior to the implementation of the rationalization program, the BSAI crab fisheries were prosecuted as a limited access, derby fishery, under which the participants raced for crab after the opening, with the fishery closing once managers estimated that the guideline harvest level (GHL)⁸ was fully taken. This limited access management creates an incentive for all license holders to participate in the fishery, since a person cannot receive a return from the fishery without participating. The results of this incentive were evident in the crab fisheries. For the last several years of limited access management, seasons in the two largest fisheries ranged from a few days to a few weeks, despite harvest levels near historical lows. From the 2000 season through 2004 season, Bristol Bay red king crab fishery harvests ranged from a low of 7.5 million pounds to high of 14.5 million pounds, while Bering Sea *C. opilio* harvests ranged from 22.2 million pounds to 30.8 million pounds. Between 150 and 250 vessels participated, annually, in each fishery.

⁸ Historically, the GHL specified a range of allowable catch, providing in-season managers with some discretion to close the fishery based on their assessment of stock conditions. In making these assessments, managers would rely on survey information, as well as in-season and cross-season variations in catch rates. In more recent years, managers specified GHLs as specific amounts, managing the fishery in-season to allow harvest of that specific amount.

Table 2-1 Owner quota share holdings as a percent of the owner share pool (2012/2013).

Fishery	Region and CP	QS holders	Percent of Pool	Total Holders QS
Bristol Bay red king crab	North	31	10.68	290
	South	247	85.17	
	Catcher/processor	12	4.14	
Bering Sea <i>C. opilio</i>	North	225	47.87	470
	South	223	47.45	
	Catcher/processor	22	4.68	
Eastern Bering Sea <i>C. bairdi</i>	Not Designated	198	94.29	210
	Catcher/processor	12	5.71	
Western Bering Sea <i>C. bairdi</i>	Not Designated	234	95.12	246
	Catcher/processor	12	4.88	
Eastern Aleutian Islands golden king crab	South	20	80	25
	Catcher/processor	5	20	
Western Aleutian Island golden king crab	Not Designated	11	50	22
	West	8	36.36	
	Catcher/processor	3	13.64	
Western Aleutian Island red king crab	South	36	94.74	38
	Catcher/processor	2	5.26	
St. Matthew Island blue king crab	North	126	57.53	219
	South	88	40.18	
	Catcher/processor	5	2.28	
Pribilof red and blue king crab	North	88	51.16	172
	South	83	48.26	
	Catcher/processor	1	0.58	

Table 2-2 C share quota share holdings as a percent of the C share pool (2012/2013).

Fisheries	Operation Type	QS holders	Percent of Pool	of QS Holders
Bristol Bay red king crab	Catcher Vessel	143	94.08	152
	Catcher/processor	9	5.92	
Bering Sea <i>C. opilio</i>	Catcher Vessel	232	97.07	239
	Catcher/processor	7	2.93	
Eastern Bering Sea <i>C. bairdi</i>	Catcher Vessel	140	89.17	157
	Catcher/processor	17	10.83	
Western Bering Sea <i>C. bairdi</i>	Catcher Vessel	139	98.05	151
	Catcher/processor	12	23.53	
Eastern Aleutian Islands golden king crab	Catcher Vessel	10	100	10
Western Aleutian Islands golden king crab	Catcher Vessel	13	86.67	15
	Catcher/processor	2	13.33	
Western Aleutian Island red king crab	Catcher Vessel	4	80	5
	Catcher/processor	1	20	
St. Matthew Island blue king crab	Catcher Vessel	101	100	101
Pribilof red and blue king crab	Catcher Vessel	65	100	65

Table 2-3 IFQ allocation by share type (2014/2015).

Fishery	Catcher vessel		Captain/ crew	Catcher processor		Total
	Owner			Owner	Captain/ crew	
	Class A	Class B				
Bristol Bay red king crab	7,487,837	831,988	260,267	397,831	9,480	8,987,403
Bering Sea <i>C. opilio</i>	48,502,103	5,389,116	1,736,881	5,418,511	108,399	61,155,010
Eastern Aleutian Islands golden king crab	2,474,893	274,989	229,120	139,754	-	3,118,756
Eastern Bering Sea Tanner Crab	6,219,316	691,041	205,617	498,637	17,374	7,631,985
St. Matthew Island blue king crab	504,860	56,107	17,108	11,427	-	589,502
Western Aleutian Islands golden king crab	1,259,086	139,897	46,261	1,202,551	34,203	2,681,998
Wester Bering Sea Tanner crab	4,860,313	540,039	158,885	389,678	13,577	5,962,492

Source: NMFS Restricted Access Management IFQ database, crab fishing year 2014/2015.

Under the rationalization program, participants are allocated exclusive shares of the TAC. Since allocations are exclusive, participants do not need to race to prevent others from preempting their catch. To improve returns from the fisheries, participants have an incentive to reduce costs. One obvious means of reducing costs is fleet consolidation. Stacking quota on fewer vessels can save on costs, not only of capital, but also maintenance, insurance, labor, fuel, and other variable input costs. An examination of data from the first 2 years of the program and the years immediately preceding implementation shows a drastic reduction in the fleet under the program (see Table 2-4). Although precise estimates of crew are not currently available, industry participants believe that most vessels are operated by a crew of 6 (including the captain). The fleet contraction that occurred after implementation of the CR Program resulted in substantial losses of crew positions in the crab fisheries, as those positions declined proportionally with fleet contraction. At the start of the program, C shares were allocated only to captains. Given the level of fleet consolidation, it is likely that many initial recipients of these shares have lost their captain positions under the program. This relatively high level of inactivity may explain the consolidation of C shares in cooperatives.

Under the rationalization program, fleets (and likely corresponding captains and crews) declined to between one-half and one-third of their pre-rationalization levels. Assuming that each vessel employs 6 crew (including the captain),⁹ annual average captain and crew participation in the Bering Sea *C. opilio* and Bristol Bay red king crab fisheries dropped from in excess of 1,000 to 500 or fewer. Captain and crew participation in the Eastern Aleutian Islands golden king crab fishery dropped from in excess of 100 to fewer than 40. Captain and crew participation in the Western Aleutian Islands golden king crab fishery dropped from annual averages of approximately 40 to approximately 20.

Most harvesters (including C shareholders) have elected to join cooperatives, so most annual allocations are made to cooperatives (see Table 2-5). As cooperative shares, these shares may be more easily consolidated, since transfers among cooperative members are administered by the cooperative (rather than by NMFS).

⁹ This estimate is consistent with preliminary review of data from the Economic Data Reporting datasets and estimates used in other analyses (see Knapp, 2006).

Table 2-4 Catch and number of vessels by operation type (2001 to 2009/2010).

Fishery	Season	Catch	Catch (as percent of total) by		Number of vessels participating		
			catcher vessels	catcher processors	catcher vessels	catcher processors	all unique vessels
Bering Sea <i>C. opilio</i>	2001	22,940,704	86.5	13.5	201	8	207
	2002	29,609,702	94.4	5.6	182	9	190
	2003	25,410,122	96.8	3.2	185	5	190
	2004	21,939,493	97.0	3.0	183	6	189
	2005	22,655,777	97.1	2.9	161	6	167
	2005 - 2006	33,248,009	92.2	7.2	76	4	78
	2006 - 2007	32,699,911	90.9	8.4	66	4	70
	2007 - 2008	56,722,400	92.4	7.6	74	4	78
	2008 - 2009	52,687,374	92.8	7.1	73	4	77
2009 - 2010	43,193,971		100.0	67	2	69	
Bristol Bay red king crab	2001	7,681,106	96.6	3.4	224	8	230
	2002	8,770,348	95.2	4.8	234	9	241
	2003	14,237,375	95.7	4.3	242	8	250
	2004	13,889,047	96.7	3.3	243	8	251
	2005 - 2006	16,472,400	96.5	2.8	88	4	89
	2006 - 2007	13,877,870	97.0	2.9	79	3	81
	2007 - 2008	18,324,046	97.0	2.8	72	3	74
	2008 - 2009	18,288,881	97.1	2.4	75	3	77
2009 - 2010	14,337,782		99.5	69	2	70	
Eastern Bering Sea <i>C. bairdi</i>	2006 - 2007	1,267,106	72.7	2.2	33	3	36
	2007 - 2008	1,439,435	46.4		19	1	20
	2008 - 2009	1,553,584	62.5		20	1	21
	2009 - 2010	1,189,573	97.9		16	1	17
Western Bering Sea <i>C. bairdi</i>	2005 - 2006	791,025	54.3		42	2	43
	2006 - 2007	633,910	64.4		34	2	36
	2007 - 2008	467,136	23.9		26	1	27
	2008 - 2009	108,368	7.8		27	0	27
St. Matthew Island blue king	2009 - 2010	460,859	43.9		7	0	7
Eastern Aleutian Islands golden king crab	2001 - 2002	3,128,409	100.0		19	0	19
	2002 - 2003	2,765,436	100.0		19	0	19
	2003 - 2004	2,900,247	100.0		18	0	18
	2004 - 2005	2,846,273	100.0		20	0	20
	2005 - 2006	2,569,209	95.2		6	1	7
	2006 - 2007	2,692,009	99.7		5	1	6
	2007 - 2008	2,690,377	99.6		3	1	4
	2008 - 2009	2,823,773	99.6		3	0	3
	2009 - 2010	2,832,932	99.9		3	0	3
Western Aleutian Islands golden king crab	2001 - 2002	2,693,221	100.0		8	1	9
	2002 - 2003	2,605,237	100.0		5	1	6
	2003 - 2004	2,637,161	100.0		5	1	6
	2004 - 2005	2,639,862	100.0		5	1	6
	2005 - 2006	2,382,468	98.0		2	1	3
	2006 - 2007	2,002,186	82.3		2	1	3
	2007 - 2008	2,246,040	92.4		2	1	3
	2008 - 2009	2,252,111	88.3		2	1	3
	2009 - 2010	2,478,313	97.1		2	1	3
All fisheries	2001 - 2002				235	11	243
	2002 - 2003				238	11	247
	2003 - 2004				245	9	254
	2004 - 2005				247	9	256
	2005 - 2006				100	5	101
	2006 - 2007				87	5	91
	2007 - 2008				83	5	87
	2008 - 2009				84	5	88
2009 - 2010				76	3	78	

Sources: ADFG fishtickets prior to 2005 and NMFS RAM catch data (for 2005-2006 through 2009-2010)

Notes: Catch as a percent of IFQ allocations for 2005-2006 through 2009-2010 seasons.

"All fishery" participation in a season includes all fisheries prosecuted between July 1 and June 30.

For 2005-2006 through 2009-2010, catcher processor vessel counts include all vessels harvesting catcher processor shares.

Table 2-5 Allocations to cooperatives by share type and fishery (2009/2010 through 2010/2011).

Fishery	IFQ type	2009 - 2010 season			2010 - 2011 season		
		Cooperative IFQ	Individual IFQ	Percent of IFQ type issued to cooperatives	Cooperative IFQ	Individual IFQ	Percent of IFQ type issued to cooperatives
Bristol Bay red king crab	CP Crew	14,019		100.0	14,019		100.0
	CP Owner	588,338		100.0	588,338		100.0
	CV Crew	379,098	5,803	98.5	379,098	5,803	98.5
	CV Owner	12,367,846		100.0	12,367,846		100.0
Bering Sea <i>C. opilio</i>	CP Crew	86,047		100.0	86,047		100.0
	CP Owner	4,301,238		100.0	4,301,238		100.0
	CV Crew	1,361,632	17,475	98.7	1,361,632	17,475	98.7
	CV Owner	43,086,493		100.0	43,086,493		100.0
Eastern Aleutian Island golden king crab	CP Owner	133,003		100.0	133,003		100.0
	CV Crew	84,933		100.0	84,933		100.0
	CV Owner	2,617,062		100.0	2,617,062		100.0
Eastern Bering Sea <i>C. bairdi</i>	CP Crew	2,777	209	93.0	Closed		
	CP Owner	79,189		100.0			
	CV Crew	29,345	2,525	92.1			
	CV Owner	1,099,453		100.0			
St. Matthew Island blue king crab	CP Owner	20,073		100.0	27,511		100.0
	CV Crew	25,623	3,040	89.4	35,805	2,834	92.7
	CV Owner	995,180		100.0	1,358,028	5,939	99.6
Western Aleutian Island golden king crab	CP Crew	32,538		100.0	32,538		100.0
	CP Owner	1,144,038		100.0	1,144,038		100.0
	CV Crew	44,009		100.0	44,009		100.0
	CV Owner	1,330,915		100.0	1,330,915		100.0

Source: NMFS RAM IFQ data.

CP = catcher processor

CV = catcher vessel

The percentages of annual allocations that were harvested for the first five years of the CR Program have been fairly consistent across the various share types (see Table 2-6). C share harvests, however, have lagged slightly behind A share and B share harvests. The reason for this lag is not apparent. In some cases, it is possible that C shares are given lower harvest priority than A shares or B shares. C shareholders likely have less negotiating leverage, because of their relatively small share holdings. It is also possible that some shareholders (including cooperatives) have reserved C shares to address late season contingencies, because of absence of landing limitations on C shares.

Table 2-6 Percentage of allocation harvested by share type (2005/2006 through 2009/2010).

Season	Fishery	Catcher vessel														Catcher processor			
		Owner												Crew		Owner		Crew	
		Class A North		Class A South		Class A West		Class A Undesignated		Class B		Crew		Owner		Crew			
		Number of vessels	Percent of IFQ harvested	Number of vessels	Percent of IFQ harvested	Number of vessels	Percent of IFQ harvested	Number of vessels	Percent of IFQ harvested	Number of vessels	Percent of IFQ harvested	Number of vessels	Percent of IFQ harvested	Number of vessels	Percent of IFQ harvested	Number of vessels	Percent of IFQ harvested		
2005 - 2006	Bristol Bay red king crab	9	100.0	84	99.9					68	99.7	65	95.6	8	100.0	6	99.8		
	Bering Sea <i>C. opilio</i>	59	99.3	69	99.6					55	99.2	50	93.6	7	99.9	7	87.4		
	Eastern Aleutian Islands golden king crab			6	95.1					6	92.6	4	95.9	3	100.0				
	Western Aleutian Island golden king crab					2	*	2	*	2	*	2	*	2	*	2	*		
	Western Bering Sea <i>C. bairdi</i>							32	58.4	18	41.5	10	27.9	2	*	2	*		
2006 - 2007	Bristol Bay red king crab	6	100.0	75	100.0					61	99.2	58	96.1	8	99.9	7	100.0		
	Bering Sea <i>C. opilio</i>	43	100.0	54	100.0					50	99.9	44	96.8	7	100.0	5	86.8		
	Eastern Aleutian Islands golden king crab			5	100.0					4	100.0	3	88.4	2	*				
	Eastern Bering Sea <i>C. bairdi</i>							27	79.0	11	68.5	13	55.5	5	42.5	4	55.0		
	Western Aleutian Island golden king crab					1	*	2	*	2	*	2	*	2	*	1	*		
2007 - 2008	Bristol Bay red king crab	6	100.0	71	100.0					45	99.8	41	99.4	10	99.9	7	100.0		
	Bering Sea <i>C. opilio</i>	67	100.0	69	100.0					50	99.9	37	100.0	8	100.0	6	100.0		
	Eastern Aleutian Islands golden king crab			3	99.9					3	98.2	2	*	1	*				
	Eastern Bering Sea <i>C. bairdi</i>							18	47.0	6	52.2	4	38.7	3	36.4				
	Western Aleutian Island golden king crab					1	*	2	*	2	*	1	*	2	*	1	*		
2008 - 2009	Bristol Bay red king crab	5	100.0	74	100.0					42	98.5	32	98.9	10	100.0	8	100.0		
	Bering Sea <i>C. opilio</i>	62	100.0	67	100.0					55	100.0	39	100.0	14	99.9	6	100.0		
	Eastern Aleutian Islands golden king crab			3	100.0					3	98.6	3	*	1	*				
	Eastern Bering Sea <i>C. bairdi</i>							18	64.2	6	67.2	10	*	2	*	2	*		
	Western Aleutian Island golden king crab					2	*	2	*	1	*	1	*	1	*	1	*		
2009 - 2010	Bristol Bay red king crab	6	99.7	68	99.6					45	98.3	36	99.4	8	100.0	9	100.0		
	Bering Sea <i>C. opilio</i>	54	100.0	61	100.0					46	100.0	33	100.0	14	99.5	8	99.9		
	Eastern Aleutian Islands golden king crab			3	99.9					3	100.0	3	*	1	*				
	Eastern Bering Sea <i>C. bairdi</i>							13	98.8	10	100.0	9	86.3	5	89.0	3	83.2		
	Western Aleutian Island golden king crab					2	*	2	*	2	*	2	*	1	*	2	*		
St. Matthew Island blue king crab	7	58.1978	1	*					1	*	1	*	0	0.0					

Source: RAM IFQ database, 2005-2006 through 2009-2010.

* withheld for confidentiality.

Note: blanks are inapplicable.

2.3.3 C shares

Most C shareholders have used their shares through cooperatives. Under this arrangement, the shares are allocated to the cooperative and fished in coordination with all of the cooperative's shares under the cooperative agreement. Cooperative use of shares simplifies transfers (particularly transfers within the cooperative which require no agency administration). The cooperative structure also simplifies share use in instances where the cooperative manager effectively oversees and coordinates share use across the cooperative's fleet. The ability to rely on a cooperative manager to coordinate share use removes that burden from a crewmember who is engaged in the fishery.

Currently, most C shareholders are compensated for landings, based on a royalty, much as lessors of vessel owner shares are compensated. In most cases, the compensation is a percentage of the ex-vessel price paid for the landing. Since C share landings are said to bring a price similar to B shares in the current market, the royalty payments are generally thought to be similar to those received for B share leases. Some cooperatives are said to average royalties across all cooperative IFQ, which could reduce C share royalties by averaging in pricing of Class A IFQ that may bring a lower ex-vessel price. The use of a royalty system (and the amount of the royalty) generally applies whether or not the holder of the C shares fishes on the harvesting vessel. Likewise, crew shares paid by a vessel owner typically are not affected by C share holdings of the crew. So, in most cases, the monetary compensation for C share holdings is separate from and independent of the compensation for activity as a crewmember of the holder.

In general, cooperatives have managed their shares (including C shares) as a pool. Underages (or unused cooperative IFQ) are often distributed across all shareholders, including C shareholders, in proportion to share holdings. This method of distributing IFQ usage across shareholders would ensure that C shareholders share in both benefits and costs of the cooperative's ability to precisely manage the harvest of its share holdings.

Vessel owners report that C share holdings currently have little effect on hiring decisions. Most vessel owners continue to hire based on performance related criteria. Given the relatively small pool of C shares and limits on aggregation, whether C shares could have an influence on employment decisions in the future is questionable. Some vessel owners, however, have supported their crews' acquisition of C shares, including providing financial support. These vessel owners believe that C share purchases can instill an ownership interest that could add longevity, particularly for proven crew.

In the first five calendar years since allocation of C share QS, substantial portions of the C share QS pools have been transferred (see Table 2-7). Over 25 percent of the C share QS were transferred in four of the fisheries in the first 5 years of the program. The transfer market seems to have slowed since the second year, which may be a reflection of persons no longer employed in the fisheries divesting of their shares in the first two years. Although a large portion of the C share QS pool has been traded in each year, these transfers are a relatively small portion of the total QS pool. In most years and fisheries, a substantially larger portion of the total QS transfers have been transfers of vessel owner shares.

Price differentials on transfers of C share QS and owner QS vary across time and fisheries (see Table 2-8). In general, C share prices have been approximately one-third lower than the prices of owner shares in the first 3 years of the program. Similarly, stringency of active participation requirements is likely to affect C share prices in the future.¹⁰

¹⁰ In considering price information, it should also be noted that in some instances transfers included accompanying IFQ for the current season. The effect of the inclusion of IFQ on transfer prices was not examined for this analysis. In general, the inclusion of IFQ is expected to be a function of the timing of the transfer relative to the crab fishing season and the net value of catch that could be made with the IFQ.

Table 2-7 Transfers of QS by year and fishery.

Fishery	Sector	2005		2006		2007	
		Number of units	Percentage of QS pool	Number of units	Percentage of QS pool	Number of units	Percentage of QS pool
Bristol Bay red king crab	Catcher processor crew						
	Catcher processor owner	1,569,702	0.39			1,095,593	0.27
	Catcher vessel crew	1,394,428	0.35	1,226,094	0.31	570,569	0.14
	Catcher vessel owner	9,519,319	2.37	25,903,537	6.45	15,714,819	3.91
Bering Sea <i>C. opilio</i>	Catcher processor crew			222,842	0.02		
	Catcher processor owner	11,997,148	1.19			9,972,035	0.99
	Catcher vessel crew	2,995,884	0.30	3,049,661	0.30	821,969	0.08
	Catcher vessel owner	36,952,703	3.68	51,615,892	5.14	49,652,053	4.94
Bering Sea <i>C. bairdi</i>	Catcher processor crew	19,854	0.01				
	Catcher processor owner	1,570,469	0.78				
	Catcher vessel crew	528,329	0.26	181,990	0.09		
	Catcher vessel owner	9,930,491	4.95	3	0.00		
Eastern Aleutian Islands golden king crab	Catcher processor owner					396,848	3.97
	Catcher vessel crew	43,372	0.43			35,191	0.35
	Catcher vessel owner	1,021,237	10.21			3,034,034	30.34
Eastern Bering Sea <i>C. bairdi</i>	Catcher processor owner			460,039	0.23	911,106	0.45
	Catcher vessel crew			491,486	0.25	178,143	0.09
	Catcher vessel owner			14,485,599	7.22	7,397,444	3.69
Pribilof red and blue king crab	Catcher vessel crew			48,351	0.16		
	Catcher vessel owner	382,973	1.27	960,391	3.20	637,488	2.12
St. Matthew Island blue king crab	Catcher vessel crew	49,745	0.16	60,004	0.20	35,644	0.12
	Catcher vessel owner	766,644	2.53	1,160,704	3.84	2,058,705	6.80
Western Aleutian Island golden king crab	Catcher processor crew						
	Catcher processor owner			1,646	0.00	190,857	0.48
	Catcher vessel crew	75,643	0.19			74,001	0.19
Western Aleutian Island red king crab	Catcher processor owner						
	Catcher vessel owner			1,232,580	2.05	797,165	1.33
Western Bering Sea <i>C. bairdi</i>	Catcher processor owner			460,039	0.23	911,106	0.45
	Catcher vessel crew			469,661	0.23	178,143	0.09
	Catcher vessel owner			14,485,599	7.22	6,088,453	3.03

Source: RAM transfer data.

Fishery	Sector	2008		2009		2010		Total across all years (as percentage of QS pool)
		Number of units	Percentage of QS pool	Number of units	Percentage of QS pool	Number of units	Percentage of QS pool	
Bristol Bay red king crab	Catcher processor crew			16,141	0.00			0.00
	Catcher processor owner	2,047,730	0.51	771,900	0.19	622,435	0.16	1.52
	Catcher vessel crew	567,719	0.14	427,846	0.11	45,874	0.01	1.05
	Catcher vessel owner	21,506,925	5.36	13,403,897	3.34	1,304,924	0.32	21.75
Bering Sea <i>C. opilio</i>	Catcher processor crew			71,261	0.01			0.03
	Catcher processor owner	8,593,014	0.86	11,217,492	1.12			4.16
	Catcher vessel crew	1,056,848	0.11	1,121,203	0.11	191,093	0.02	0.92
Eastern Aleutian Islands golden king crab	Catcher processor owner			24,397,671	2.43	2,392,908	0.24	18.59
	Catcher vessel crew	59,908	0.60	15,789	0.16			1.54
	Catcher vessel owner	47,819	0.48	804,355	8.04			49.07
Eastern Bering Sea <i>C. bairdi</i>	Catcher processor owner	1,371,158	0.68	1,311,988	0.65			2.02
	Catcher vessel crew	242,855	0.12	29,223	0.01	33,867	0.02	0.49
	Catcher vessel owner	7,697,362	3.84	4,367,051	2.18			16.93
Pribilof red and blue king crab	Catcher vessel crew	36,000	0.12					0.26
	Catcher vessel owner	242,664	0.81					7.40
St. Matthew Island blue king crab	Catcher vessel crew	24,951	0.08	9,320	0.03			0.59
	Catcher vessel owner	476,273	1.57	885,520	2.93			17.67
Western Aleutian Island golden king crab	Catcher processor crew	9,257	0.02					0.02
	Catcher processor owner							0.48
	Catcher vessel crew	59,446	0.15					0.52
Western Aleutian Island red king crab	Catcher processor owner							12.22
	Catcher vessel owner	395,110	0.66					4.04
Western Bering Sea <i>C. bairdi</i> *	Catcher processor owner	1,371,158	0.68	1,311,988	0.65			2.02
	Catcher vessel crew	242,855	0.12	20,608	0.01	33,867	0.02	0.47
	Catcher vessel owner	7,697,361	3.84	4,367,051	2.18			16.27

Source: RAM transfer data.

* Total includes transfers of Bering Sea *C. bairdi* from 2005 and 2006.

Table 2-8 QS transfer prices by fishery and sector (2005 through 2010).

Fishery	Sector	Year	Number of priced transfers	Total number of priced shares transferred	Average share price	Average cost of a transfer	Average portion of quota share pool transferred
Bristol Bay red king crab	Catcher vessel crew	2005	20	1,167,992	0.75	43,686	0.015
		2006	24	1,130,330	0.68	32,257	0.012
		2007	10	525,490	0.65	34,303	0.013
		2008	10	522,640	0.81	42,408	0.013
		2009	9	427,846	0.75	35,879	0.012
	Catcher vessel owner	2005	12	5,109,609	0.78	330,542	0.106
		2006	27	24,420,200	1.20	1,084,922	0.225
		2007	21	7,144,784	1.17	399,207	0.085
		2008	29	15,859,554	1.10	601,410	0.136
		2009	12	4,525,837	0.90	339,745	0.094
		2010	14	1,304,924	0.87	81,286	0.023
Bering Sea <i>C. opilio</i>	Catcher vessel crew	2005	25	2,793,091	0.24	27,341	0.011
		2006	33	2,589,187	0.19	15,100	0.008
		2007	12	821,969	0.26	17,753	0.007
		2008	10	757,824	0.42	31,589	0.008
		2009	15	1,121,203	0.28	20,804	0.007
	Catcher vessel owner	2005	23	25,473,247	0.38	419,732	0.110
		2006	36	48,984,237	0.26	350,501	0.135
		2007	26	24,751,778	0.47	445,936	0.095
		2008	21	19,426,276	0.56	518,192	0.092
		2009	14	6,452,415	0.34	155,133	0.046
Bering Sea <i>C. bairdi</i>	Catcher vessel crew	2005	14	400,790	0.19	5,545	0.014
	Catcher vessel owner	2005	10	5,403,408	0.31	169,137	0.269
Eastern Bering Sea <i>C. bairdi</i>	Catcher vessel crew	2006	17	394,012	0.05	1,117	0.012
		2007	5	178,143	0.07	2,662	0.018
	Catcher vessel owner	2006	17	6,577,526	0.07	25,414	0.193
		2007	9	3,030,918	0.26	86,601	0.168
		2008	17	7,206,331	0.21	88,902	0.211
		2009	5	832,229	0.06	9,888	0.083
Western Bering Sea <i>C. bairdi</i>	Catcher vessel crew	2006	15	349,891	0.04	817	0.012
		2007	5	178,143	0.04	1,585	0.018
	Catcher vessel owner	2006	22	8,511,781	0.08	31,788	0.193
		2007	8	2,948,045	0.08	31,294	0.184
		2008	18	7,264,683	0.08	33,549	0.201
		2009	5	832,229	0.03	5,809	0.083

Notes: Includes only priced transfers for share types of which 5 or more non-nominally priced transactions occurred in a years. All transfers of Bering Sea *C. bairdi* occurred prior to division of those allocations into two areas and therefore include transfers of both Eastern and Western Bering Sea *C. bairdi*. A portion of these transfers included accompanying Source: Restricted Access Management, NOAA Fisheries.

2.3.4 Ex-vessel pricing

Assessing ex-vessel prices under the rationalization program is complicated by several factors. The two different catcher vessel owner IFQ types may bring different prices, because of the different limitations on use of those shares and the effects of the arbitration program. The two different types of IFQ that are unrestricted by limits on landings (catcher vessel owner Class B IFQ and C share IFQ) could bring different prices, because of the difference in negotiating leverage of their holders.

Data distinguishing ex-vessel prices by IFQ type, as well as anecdotal evidence, suggest that harvesters have been able to gain a premium on landings of Class B and C share IFQ catch, over landings Class A

IFQ catch (see Table 2-9).¹¹ These premiums vary across participants and time, averaging between 5 cents and 10 cents per pound.¹² Premiums are thought to fluctuate with market conditions, which vary within and across years. When crab product markets are particularly weak, processors are thought to be generally less willing to buy crab to add to existing inventories. Although price data do not show noticeable differences, competition for Class B and C share IFQ is believed to have been at its lowest in the first year of the program, when harvesters were least prepared to market landings, and crab prices were particularly low. Harvesters, who have since become more familiar with the program, were less prepared to coordinate activities to generate competition for Class B and C share IFQ catches. Since that time, harvesters are said to have become better organized, stimulating more competition for Class B and C share IFQ landings. Premiums are thought to follow a few patterns. Specifically, premiums are thought to be raised when a processor has identified a specific market for its product.

Table 2-9 Average landings prices by share type in the Bristol Bay red king crab, Bering Sea *C. opilio*, and Bering Sea *C. bairdi* fisheries (2006 through 2009).

Fishery	Year	Class A IFQ landings			Class B IFQ landings			C share IFQ landings		
		Revenue	Pounds	Price	Revenue	Pounds	Price	Revenue	Pounds	Price
Bristol Bay red king crab	2006	43,204,549	11,330,881	3.813	11,066,488	2,855,527	3.875	2,003,144	528,689	3.789
	2007	65,323,237	14,730,496	4.435	15,766,650	3,502,205	4.502	2,232,231	487,674	4.577
	2008	70,197,669	13,796,804	5.088	21,098,077	4,100,529	5.145	1,719,372	332,681	5.168
	2009	53,856,252	11,615,840	4.636	14,229,047	3,022,906	4.707	2,148,870	451,832	4.756
Bering Sea <i>C. opilio</i>	2006	29,383,117	26,346,823	1.115	6,582,021	5,757,362	1.143	984,460	858,784	1.146
	2007	42,982,091	25,149,087	1.709	9,522,130	5,442,174	1.750	1,409,742	837,659	1.683
	2008	73,364,358	42,596,568	1.722	20,729,104	11,513,265	1.800	2,888,953	1,559,611	1.852
	2009	58,563,857	40,284,632	1.454	14,426,795	9,931,193	1.453	1,987,301	1,261,385	1.575
Bering Sea <i>C. bairdi</i>	2006	952,885	633,227	1.505	347,285	215,946	1.608	22,391	15,466	1.448
	2007	3,122,336	1,784,579	1.750	466,261	255,640	1.824	42,002	24,708	1.700
	2008	2,890,985	1,558,198	1.855	1,078,376	553,377	1.949	70,074	36,233	1.934
	2009	2,955,173	1,548,135	1.909	854,372	460,747	1.854	109,361	59,051	1.852

Source: EDR data

Participants in the fisheries report the extent to which B and C share deliveries have drawn a premium varies across processors and fisheries. Some processors (including processors not holding IPQ) are reported to have paid bonuses to attract deliveries of B share harvests. Some processors have chosen not to compete for landings of B share and C share harvests, but have accepted deliveries of B and C share harvests at the same price as A share landings.¹³ Under these circumstances, the B and C share harvests received by the processor have typically come from the same fleet delivering A share harvests. In some cases, B and C share deliveries are reported to have brought lower prices than A share deliveries. This appears to be supported by the average reported price for C share deliveries, which are periodically lower than the average reported price for A share deliveries.

¹¹ Care should be taken in interpreting data concerning price differences across share type. Since these data are annual, vessel level data, substantial premiums received by a vessel for a landing may be obscured, if that same vessel made landings without any premium. Similarly, examining price fluctuations in relationship to the market is not possible for two reasons. First, price data are reported on an annual basis. Second, the pricing agreements often do not coincide with deliveries and may be reached before, during, or even after the season.

¹² The difference between ex-vessel prices for Class A IFQ landings and Class B and C share IFQ landings are likely the best available information for valuing IPQ and PQS. The value of an annual IPQ pound is the difference between the Class A IFQ/IPQ landings price and Class B and C share IFQ landings price. The value of PQS is the discounted stream of savings on the yielded IPQ ex-vessel price payments as compared to price payments for the same quantity of Class B or C share IFQ landings. As with QS, PQS values may be discounted from these levels to accommodate TAC and market uncertainties.

¹³ Some participants have suggested that processors are reluctant to bid up the price for B shares, in part, because they fear that arbitrators may simply equate A share ex-vessel prices with B share ex-vessel prices.

Any absence of a substantial premium on B and C share landings in the program to date could be explained by a few factors other than the utility of those unrestricted shares in serving their purpose as competitive market shares. In the first 2 years of the program, crab markets have been at some of their lowest levels in recent years. In such a market, it is possible that the difference between a competitive price and the price arrived at through the arbitration standard is relatively small. Even in better markets, it is possible that the standard, under which the historical division of revenues is a primary consideration, would result in a price similar to the competitive price. Those historical prices were determined in a competitive market, albeit a market under a different management and economic structures. In addition, some harvesters are reported to have used B and C shares to realize efficiencies in harvesting. B and C share harvests have supplemented a partial delivery of A shares to limit the need for an additional trip to harvest (and independently market) the B and C share catch. Also, when making A share harvests, some harvesters avoid underages that would require an additional trip, knowing that B and C shares can be used to cover any A share harvest overage. These B and C share landings often are at the same price as the accompanying A share landings. These uses of B and C shares clearly benefit harvesters, but detract from the use of B and C shares to facilitate competitive markets.

2.4 Analysis of alternatives

Through this action, the Council will determine active participation requirements for the acquisition and use of C shares. The effects of this action are almost exclusively those realized by C shareholders, persons wishing to acquire C shares, and managers. As such the analysis of effects of each proposed alternative is contained in a single section, which discusses effects on these different persons.

In analyzing the alternatives in this action, the Council should consider the interaction of these measures with other aspects of the program, particularly the cooperative structure. Since, under the present program, most C shareholders choose to join cooperatives, almost all C shares are fished as cooperative quota (rather than individual fishing quota). Consequently, coordination of the use of C share IFQ has been addressed through cooperatives.

2.4.1 Effects of alternatives revising eligibility to acquire C shares

The first part of this action considers providing persons formerly active in the fishery, who are no longer active, with eligibility to acquire C shares for a transition period.

Status quo

Under the status quo, to receive C shares by transfer a person must be an individual with at least 150 days of sea time in a harvest capacity in a U.S. commercial fishery and have been active as a crewmember in one of the rationalized crab fisheries in the preceding 365 days. Participation is defined as being on board a vessel as either captain or crew during at least one landing.¹⁴ Under this standard, captains and crew displaced by fleet contraction who have not found a position in one of the fisheries would not be permitted to acquire C shares, until participating in a landing. Based on the fleet contraction that occurred on implementation of the program, it is likely that as many as two-thirds of the persons that would have met this standard prior to the implementation of the program would not currently meet the standard. Assessing the effects of the status quo, it is helpful to separate persons not meeting the standard into two categories, those who received an initial allocation of C shares and those who did not.

¹⁴ Participation in a landing may be demonstrated by an Alaska Department of Fish and Game (AFG&G) fish ticket on which the person is the permit holder, an IFQ landing receipt showing the person as the hired master, or an affidavit of the vessel owner. These methods of demonstrating participation are not at issue in this action.

Initial allocations were made only to State of Alaska Commercial Fisheries Entry Commission permit holders, who are generally captains, who met specific historical and recent participation requirements as permit holders. Historical participation was demonstrated by having at least one landing in three of the qualifying years in the fishery. Recent participation was demonstrated by having landings in two of the three seasons preceding April 2002 (when the Council selected its preliminary preferred alternative for the initial allocation of C shares).¹⁵ Based on these criteria, NMFS made initial allocations to 239 permit holders (see Table 2-10). Of these initial recipients, 97 are estimated to have remained active as card holders¹⁶ (i.e., most likely as captains) as demonstrated by one or more landings in the three most recent seasons (2007/2008 through 2009/2010). Data showing activity as crew are not available. It is possible that additional recipients of initial allocations were active as crew, but it is believed that most captains who have not retained a position as captain are not active in the fisheries. Under the status quo, inactive persons, including recipients of an initial allocation, would not be able to acquire additional C shares.

Table 2-10. Initial allocation of C share QS.

Fishery	Share holdings by operation type						Share holdings across operation types			
	Operation type	Percent of pool	QS holders	Mean holding	Median holding	Maximum holding	QS holders	Mean holding	Median holding	Maximum holding
	Bristol Bay red king crab	Catcher vessel	96.5	178	0.5	0.5	1.1	181	0.6	0.5
	Catcher processor	3.5	8	0.4	0.4	1.2				
Bering Sea <i>C. opilio</i>	Catcher vessel	94.1	152	0.6	0.6	1.3	155	0.6	0.6	1.6
	Catcher processor	5.9	8	0.7	0.7	1.6				
Bering Sea <i>C. bairdi</i>	Catcher vessel	91.8	170	0.5	0.5	1.7	176	0.6	0.5	1.7
	Catcher processor	8.2	15	0.5	0.4	1.5				
Eastern Aleutian Island golden king crab	Catcher vessel	100.0	13	7.7	8.2	12.8	13	7.7	8.2	12.8
Western Aleutian Island golden king crab	Catcher vessel	57.5	8	7.2	5.6	21.7	9	11.1	6.2	41.7
	Catcher processor	42.5	2	21.3	21.3	41.7				
Western Aleutian Island red king crab	Catcher vessel	86.4	4	21.6	14.3	49.5	4	25.0	20.8	49.5
	Catcher processor	13.6	1	13.6	13.6	13.6				
St. Matthew Island blue king crab	Catcher vessel	100.0	72	1.4	1.4	3.1	72	1.4	1.4	3.1
Pribilof red and blue king crab	Catcher vessel	100.0	40	2.5	2.4	4.8	40	2.5	2.4	4.8

Source: NMFS Restricted Access Management QS database, initial allocation.
 Note: These share holdings data are publicly available and non-confidential.

Two sets of persons active on vessels in the fisheries prior to implementation of the rationalization program did not receive an initial allocation. Captains that did not meet both the historical and recent participation criteria did not receive initial allocations. Comparing the number of recipients of initial allocations with the number of active vessels in the fisheries, it appears that captains of at least 25 vessels active in the fisheries in the 5 years preceding implementation of the program did not have captains that received an initial allocation. In addition, no crew, regardless of their record of participation, received initial allocations.¹⁷ Based on the difference in the number of vessels participating in the fisheries prior and subsequent to implementation of the rationalization program, at least 750 former crew who were active in the 5 years preceding implementation of the program are no longer active in the crab fisheries.¹⁸

¹⁵ Exceptions to the recent participation requirements were made to address specific circumstances in certain fisheries. Recent participation requirements for the Bering Sea *C. bairdi*, the Western Aleutian Islands golden king crab, St. Matthew Island blue king crab, and the Pribilof red and blue king crab fisheries were based on participation on other fisheries included in the program, since those fisheries were closed in most years immediately preceding adoption of the program. Also, in the Pribilof fishery participants that worked on vessels less than 60 feet in length overall were exempt from any recency requirement, since most of those smaller vessels did not participate in other fisheries included in the program.

¹⁶ Card holders are the IFQ holder or other person authorized to make deliveries of IFQ. In most instances, card holders are believed to be the captain of the vessel harvesting the IFQ.

¹⁷ It is likely that some persons fall into both categories. Persons moving from the deck to a captain position did not meet the eligibility criteria for a captain, and therefore did not receive an allocation, would be in both categories.

¹⁸ This estimate is based on the assumption that each vessel employs 5 crew (excluding the captain).

Together, in excess of 900 persons, active in the 5 years prior to implementation of the rationalization program, appear to be no longer active in the fisheries. These persons include inactive initial recipients of shares, inactive captains (who did not receive an initial allocation), and inactive crew. Any of these persons who did not secure a position on a vessel in the fisheries after the program was implemented would not be permitted to acquire C shares under the existing active participation requirement.

Under the status quo, persons formerly active in the fisheries (including initial recipients of C shares, captains who did not receive an initial allocation of C shares, and crew), but currently inactive, cannot acquire C shares. Two different influences could motivate the desire to purchase shares by these persons. First, some of these persons could view share holdings as providing a potential avenue to reemployment in the fisheries. These persons may believe that share holdings could improve their chances of gaining employment in the fisheries. If a vessel owner views a potential crewmember's share holdings as an indication of that person maintaining a long term interest in the fishery, that vessel owner could be induced to hire the person over other applicants that have no share holdings. To date, vessel owners have not indicated that share holdings are a large consideration in hiring. Instead vessel owners are said to focus on performance related information when making crew hires. Given that C shares are only 3 percent of the quota share pool (and are subject to a cap limiting persons to holding no more than 2 percent of the C share pool in most fisheries), the potential for a C shareholder to amass C share holdings in an amount that would induce a vessel owner to hire the person is somewhat limited (see Table 2-11). C share holdings, however, could affect a vessel owner's hiring decision between two candidates, only one of whom holds shares in the fishery.

A second influence that could motivate a person's desire to acquire C shares is the person's desire to maintain some interest in the fishery. Some persons who have had extended careers in the fisheries could view C share holdings as a reasonable means of maintaining a connection with the crab fisheries. Despite being displaced, these persons may wish to maintain an economic interest in the fisheries. Under the status quo, these persons would not be permitted to acquire C shares.

Table 2-11. Most recent TAC and C share caps based on that TAC.

Fishery	Year	TAC	Share Cap
Bristol Bay red king crab	2013/2014	8,600,000	2
Pribilof red and blue king crab	n/a	Closed	4
St. Matthews blue king crab	n/a	Closed	4
Western Aleutian Islands red king crab	n/a	Closed	20
Eastern Aleutian Islands golden king crab	2013/2014	3,310,000	20
Western Aleutian Islands golden king crab	2013/2014	2,980,000	20
Bering Sea <i>C. opilio</i>	2013/2014	53,983,000	2
Western Bering Sea <i>C. bairdi</i>	2013/2014	1,645,000	2
Eastern Bering Sea <i>C. bairdi</i>	2013/2014	1,463,000	2

Alternatives to change eligibility to acquire C shares

This action is proposed to expand the pool of eligible persons to include persons who were active in the crab fishery immediately prior to implementation of the program, but who do not meet the requirement for activity in the 365 days preceding the transfer. This eligibility would exist for a transition period, after which the current active participation rule would apply to all share purchases. This analysis first considers the provisions that define eligibility to acquire C shares, then considers the provisions that define the term (or number of years) of eligibility, which are the same in both alternatives.

Alternative 2 (provisions excluded from the preferred alternative are shown with a strikeout)

For a period of

- ~~a. 5 or 7 years from the implementation of the program, or~~
- b. 4 years from the implementation of this amendment,

C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historical participation), and
- 3) received an initial allocation of C shares.

Alternative 3 (provisions excluded from the preferred alternative are shown with a strikeout)

For a period of

- ~~a. 5 or 7 years from the implementation of the program, or~~
- b. 4 years from the implementation of this amendment

C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historical participation), and
- 3) demonstrates participation in the BSAI rationalized crab fisheries during
 - i. 3 of the 5 seasons, ~~or~~
 - ~~ii. 2 of the 3 seasons,~~immediately preceding implementation of the rationalization program.

The action includes two alternatives defining persons who could receive transitional eligibility to acquire C shares for a limited period of time. Forms of both alternatives are included in the preferred alternative. Under alternative 2 (as incorporated in the preferred alternative), persons that received initial allocations of C shares would be eligible to acquire additional C shares for a period of 4 years from the implementation of this amendment. Under Alternative 3 (as incorporated in the preferred alternative), persons who demonstrated participation in the BSAI crab fisheries in 3 of the 5 years immediately preceding implementation of the program would be eligible to acquire C shares for a period of four years from the implementation of this amendment. An option to grant eligibility to persons who participated in the crab fisheries in 2 of the 3 years immediately preceding implementation of the program was considered, but not included in the preferred alternative. These alternatives are intended to allow persons displaced from captain and crew jobs by the fleet contraction that occurred after implementation rationalization, the opportunity to acquire C shares. This temporary opportunity may allow these persons the opportunity to make use of C shares to maintain their connection to the crab fisheries and leverage a captain or crew position in the fisheries.

Several persons who received an initial allocation of C shares under the program are believed to have not maintained their activity in the fisheries. Currently, it is estimated that less than 100 people who received an initial allocation under the CR Program are still active as card holders. While Alternative 2 would address concerns of recipients of initial allocations of C shares, the alternative will not help certain persons who may be similarly aggrieved under the current active participation requirements. By definition, the initial allocation was made only to captains (i.e., named permit holders on ADF&G fish tickets). Displaced crew who had similar participation, but were not permit holders did not receive an initial allocation and would be excluded from eligibility under Alternative 2. In addition, captains that had considerable participation in the years immediately preceding implementation of the rationalization program, but did not participate prior to 2001 were excluded from the initial allocation (as all qualifying periods ended by 2000). These persons may have more recent participation than some persons who

received an initial allocation, since eligibility for an allocation could be achieved by participation prior to June 2001, but would be excluded from eligibility under Alternative 2.¹⁹

Alternative 3 would allow persons who participated in at least one of the rationalized fisheries during a threshold number of years preceding implementation of the program to acquire C shares. Under the preferred alternative, a person with participation in 3 of the 5 years preceding implementation of the rationalization program would be eligible to acquire C shares. An option to grant this eligibility to persons with participation in 2 of the 3 years preceding the rationalization program was not included in the preferred alternative. Since participation records for crew are not available, precise estimates of eligibility under this alternative are not possible. Examining vessel participation patterns, however, provides some basis for assessing the potential effects of Alternative 3 (see Table 2-12). A total of 255 vessels participated in at least 3 of the 5 years, immediately preceding the rationalization program, while 253 participated in at least 2 of the 3 years, immediately preceding program implementation. Assuming consistent crew participation on these vessels, these data suggest that approximately 1,500 crew (including captains) may meet these eligibility criteria under either option. If the persons who received initial allocations of C shares that are currently active are assumed to be among those meeting the participation criteria, then approximately 900 additional persons (including persons who received an initial allocation of C share QS) would be eligible to acquire C shares under either alternative.

Table 2-12. Vessel participation in the years immediately preceding implementation of the rationalization program (2000/2001 to 2004/2005).

Participation in years preceding implementation	Number of vessels	Percent of participating vessels
1 of 5 years	18	6.5
2 of 5 years	6	2.2
3 of 5 years	16	5.7
4 of 5 years	20	7.2
5 of 5 years	219	78.5
1 of 3 years	13	4.9
2 of 3 years	15	5.6
3 of 3 years	238	89.5

Source: ADF&G fishtickets.

The benefit to those receiving this transitional eligibility and the effects on the market for C shares could be influenced by other factors. Most importantly, the rules governing C share use will affect whether persons with transitional eligibility will benefit from that eligibility. Specifically, if C shareholders are required to be active in the crab fisheries to receive IFQ allocations (as is addressed in the second part of this action) or are required to divest after a period of inactivity, transitional eligibility could have little effect on persons receiving that eligibility. Persons who receive transitional eligibility will be much less likely to enter the market for C shares, if they do not receive IFQ or are required to divest their C share holdings after a period of inactivity. Persons wishing to purchase C shares to maintain an interest in the fishery (but who do not intend to be active as crew) will be unlikely to enter the market during the period of transitional eligibility (since they will need to become active to maintain C share holdings). Also, persons wishing to use C shares to leverage a crew position are much less likely to enter the C share market, if they perceive a risk that they will not be able to locate an acceptable crew position.

¹⁹ To receive an initial allocation a person also needed to meet a recent participation requirement. That requirement could be met by fishing that occurred on or before June 2001.

The competing effect of the transitional eligibility will be felt by persons active as captains or crew in the fisheries. Persons currently participating in the fisheries as captain or crew are likely to be disadvantaged by an increase in competition for C shares that could arise from providing transitional eligibility to persons no longer active in the fisheries. If only initial recipients of C shares are given eligibility (under Alternative 2, as included in the preferred alternative), approximately 150 additional persons would be eligible to acquire C shares. Under the current rule, more than 600 persons are likely to be eligible to acquire C shares. So, the pool of eligible persons could increase by as much as 25 percent under Alternative 2, which would grant eligibility to initial recipients of C shares. Under Alternative 3 (as included in the preferred alternative) eligibility would be granted to persons meeting participation thresholds for the years prior to implementation of the program. If Alternative 3 is approved, eligibility might be granted to substantially more persons. Under this alternative, the number of persons who could acquire C shares would more than double from the current level (if crew participation patterns are similar to vessel participation patterns). Although the pool of eligible persons could expand substantially, the change in competition for C shares is uncertain. Many of the persons eligible under these provisions are unlikely to attempt to acquire C shares, as most are unlikely to attempt to reenter the fisheries by acquiring shares. Whether entry to the market by persons eligible under this provision will affect the cost of shares and the ability of currently active captains or crew to purchase shares is not known.

The effects of the transitional eligibility proposed by this action will also depend on several other factors. The development of the loan program could influence the effects of transitional eligibility by affecting the availability of funds for share purchases. Depending on loan eligibility provisions, the program could either compound or limit the effect of the transitional eligibility provisions. Under the loan standards proposed by the Council, a person must be active in the crab fisheries 2 of the 3 years preceding the loan application to qualify for a loan. Persons eligible to acquire C shares only under the transition provision will not be eligible for loans, so they may exert less pressure on the C share market.

The Council has considered three options defining the term of the transitional eligibility to acquire C shares under both alternatives. That eligibility could extend for 5 or 7 years from implementation of the program or, under the preferred alternative, for 4 years from the implementation of this action. The preferred alternative clearly defines the term of the transitional eligibility, as 4 years, beginning on the implementation of the amendment. The other options, which define the term based on implementation of the rationalization program, would create terms of uncertain length. The 4-year eligibility period could dissipate the market impact of qualifying additional persons, but a 4-year period is a relatively short period of time during which additional persons in the market could be noticeable. A short period during which a relatively large number of persons are eligible to acquire shares could cause some disruption to the market, if a noticeable portion of the group is very active. Also, if C shareholders perceive an increase in demand from these temporarily eligible persons, C shareholders may be inclined to enter the market as sellers during this period. The relatively low ownership caps in the fisheries limit the potential for a few persons to disrupt the market, but if a large number of persons qualify for the provision, it is possible that their collective influence on the market could be more substantial. Under any option defining the term (including the 4 years proposed by the preferred alternative), it is possible that, as the end of the eligibility period approaches, additional activity in the market could be stimulated. Persons that are likely to lose their transitional eligibility could perceive a last opportunity to participate in the market leading to higher demand.²⁰

²⁰ These effects, however, will depend on the number of persons granted transitional eligibility and whether those persons are active in the C share market. This activity will greatly depend on the rules governing C share use; specifically, whether C shareholders are required to be active to receive IFQ allocations and whether inactive C shareholders will be required to divest of their shares.

The effects of alternatives to provide transitional eligibility on managers are expected to be relatively minor. Under the current eligibility provisions, a participant can demonstrate activity as a permit holder on an ADF&G fish ticket or through affidavits of vessel owners. These (with other additional forms of evidence) could also be used to show participation under the alternatives for this action.²¹ The applications would be required to be slightly more extensive than the existing forms (requiring several years of participation instead of a single year's activity as required under the current rules), but would effectively use the same (or similar) evidence. In addition, since the transitional eligibility would only apply for a period of years, the added burden of accommodating persons receiving that eligibility would be only for the period of the provision. The enforcement burden arising out of this revision would also be relatively minor. Although a substantial number of persons could become eligible from this provision, the general approach to enforcement would be to pursue any case of possible inappropriate applications. Although this could result in a larger number of cases, the potential number of cases would be limited by the number of persons applying for eligibility and the potential for persons to misrepresent their prior fishing activity. Although some misreporting is possible, it is not believed that a substantial number of persons misreporting fishing history to create transitional eligibility will result. The potential for misreporting is reduced, if C shareholders are required to be active in the fisheries to receive annual allocations (or to avoid a forced divestiture), since most persons who are not confident of meeting future active participation requirements are unlikely to acquire shares.

2.4.2 Effects of alternatives revising active participation requirements for C shareholders

The second part of this action considers revision of the rules governing active participation requirements of C shareholders.

Status quo

Under the status quo, individuals who hold C share IFQ are required to be onboard the vessel harvesting those IFQ. If a C shareholder joins a cooperative, the IFQ are allocated to the cooperative, effectively removing the onboard requirement with respect to those IFQ. This disparate treatment of individual C shareholders and C shareholders who are cooperative members has several effects. First, the incentive for a C shareholder to join a cooperative is increased by relief from the owner-on-board obligation. Second, to the extent that the current rule is intended to ensure C shareholders are onboard when their IFQ holdings are harvested, the rule is likely ineffective. As currently formulated, the rule ensures either C share owner-on-board or cooperative membership. Data are unavailable to show the extent to which C shareholders are onboard for the harvest of their IFQ; however, card holder activity suggests that a large majority of the permit holders who received an initial allocation of C shares are no longer active as captains.²² The extent to which these persons are active as crew is not known. Also, a large majority of C shareholders have elected to join cooperatives. Although the motivations for cooperative membership go far beyond avoiding owner on board requirements, the relief from owner-on-board requirements must especially appeal to C shareholders who are no longer active in the fishery.

In the long run, as active C shareholders retire from captain and crew positions, it can be expected that many may elect to continue to remain members of cooperatives and retain their C share holdings through established relationships. Over time, the retirement of active C shareholders from crab fishing jobs will contribute to a reduction in the number of C shareholders active in the fisheries. Some C shareholders can

²¹ It may be advisable to allow other persons to sign affidavits attesting to participation, to address the contingency of a vessel owner being unavailable. These specifics could be addressed in the development of specific regulations.

²² In the 2009/2010 season, only 71 of the 239 initial recipients of C shares were active as card holders.

be expected to be active, particularly as new acquisitions will only be permitted by persons meeting an active participation requirement in the crab fisheries. Yet, at any one time, a large portion of the C share pool could be held by persons that are not active as captains or crew.

An additional effect of the current participation requirements is that the market for C shares could be less fluid. If only active captains and crew are permitted to receive benefits from C shares, it is likely that the market for these shares will be more active, since persons who retire or exit from captain and crew positions will transfer shares. Without this requirement for active participation, it is likely that C shares will be held by persons who have left their captain and crew positions and participate as cooperative members. The added flexibility for C shareholders allowed through the absence of active participation requirements for cooperative members could also increase the value of C shares. Whether a price increase is observed depends on whether the absence of active participation requirements for cooperative members under the status quo reduces supply of C shares in the market.

Alternatives to change active participation requirements for C shareholders

The Council considered two alternatives that would change the active participation requirements for C shareholders; both alternatives are included in the preferred alternative. Under Alternative 2, as included in the preferred alternative, no IFQ would be issued to a C share QS holder, unless that C share QS holder demonstrated active participation in one of the rationalized fisheries in one of the 3 years preceding the application for IFQ. Under an option, also included in the preferred alternative, a person who received an initial allocation of C shares and participated in 30 days of fishing in State of Alaska or federal fisheries in the 3 years prior to the IFQ application would be eligible to receive an annual allocation of C share IFQ. Under Alternative 3, persons inactive in the crab fisheries for 4 or 5 successive seasons would have their C share QS holdings revoked. Under the preferred alternative, the revocation would be made after 4 years of inactivity. An option would allow persons who received an initial allocation of C share QS and who participate in at least 30 days of fishing in State of Alaska or federal fisheries in the 4 or 5 season period to retain C share QS. Under the preferred alternative, a person would need to be an initial recipient of C share QS and meet the 30 days of fishing requirement during the shorter 4 year period to avoid the C share QS revocation.

The Council has also identified two ancillary options for consideration. The first option, which is included in the preferred alternative, is intended to maintain the C share IFQ allocation at its intended portion of the IFQ pool (3 percent currently), in the event that holders of a substantial portion of the C share QS pool are found to be ineligible to receive an annual allocation of IFQ or have their QS revoked. The second option, which also would be applied to either Alternative 2 or Alternative 3, would exempt persons who received an initial allocation of C shares and who were over 60 years of age at the time this amendment is implemented from any active participation requirements. This second option is not a part of the preferred alternative.

Under Alternative 2 (as included in the preferred alternative), C share QS holders who have not participated in at least one of the crab fisheries, over a period of three consecutive years, would not receive an annual allocation of IFQ. Examining activity of C shareholders after the first two years of the program provides some perspective on the effects of this provision. Table 2-13 shows that less than half of the 207 C shareholders in the 2009/2010 fishery are estimated to have participated as card holders (i.e., captains) in the three preceding crab fishing years. Whether these C shareholders were active as crew is not known. Those who remain inactive for a period of three consecutive years would not receive IFQ allocations under the first option. The share of the C share QS pool held by persons inactive as card holders is a substantial portion (and in some cases a majority) of the C share QS pool.

Alternative 2 (provisions excluded from the preferred alternative are shown with a strikeout)

To receive an annual allocation of IFQ, a C shareholder must:

have participated in at least one delivery in a fishery subject to the crab rationalization program in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ, or

Suboption: have received an initial allocation of C shares and participated in 30 days of State of Alaska or federal fisheries in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ.

No IFQ will be withheld until 3 years after implementation of this amendment.

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that the portion of the TAC available to active C shareholders is equivalent to the C share portion of the fishery as established by the Council (currently 3 percent).

Alternative 3 (provisions excluded from the preferred alternative are shown with a strikeout)

A C shareholder who does not meet one of the following active participation criteria will have all C share QS holdings revoked:

The person must have participated in at least one delivery in one of the rationalized crab fisheries in the preceding:

- a. 4 seasons (i.e., crab fishing years) or
- b. ~~5 seasons (i.e., crab fishing years).~~

Suboption: The person must have received an initial allocation of C share QS and have participated in 30 days of fishing in State of Alaska or federal fisheries in the preceding

- a. 4 seasons (i.e.; crab fishing years)
- b. ~~5 seasons (i.e., crab fishing years).~~

No QS will be revoked before 5 years from implementation of this amendment.

No prohibition of leasing C shares will apply.

Suboption: ~~Persons who received an initial allocation of C share QS and are 60 years of age or older on the date of implementation of this amendment are exempt from active participation requirements. This exemption is limited to initially issued QS (i.e., not purchased QS).~~

The extent of the drop in C shareholder activity is not known, since it is possible that some C shares have been acquired by crew (other than captains) who are less likely to be card holders.

Table 2-13. C share QS holders in 2010/2011 with active participation (at least one landing in any rationalized crab fishery) in 2007/2008 through 2009/2010 as a permit holder.

Fishery	Active (as a card holder)	Number of C share holders	Percent of C share holders	Percent of QS	Total C share holders in the fishery
Bristol Bay red king crab	Inactive	70	49.6	42.0	141
	Active	71	50.4	58.0	
Bering Sea <i>C. opilio</i>	Inactive	53	41.7	35.9	127
	Active	74	58.3	64.1	
Eastern Aleutian Islands golden king crab	Inactive	5	45.5	47.1	11
	Active	6	54.5	52.9	
Eastern Bering Sea <i>C. bairdi</i>	Inactive	79	52.7	45.3	150
	Active	71	47.3	54.7	
Pribilof red and blue king crab	Inactive	24	61.5	55.4	39
	Active	15	38.5	44.6	
St. Matthews Island blue king crab	Inactive	29	42.6	41.6	68
	Active	39	57.4	58.4	
Western Aleutian Island golden king crab	Inactive	2	25.0	28.0	8
	Active	6	75.0	72.0	
Western Aleutian Island red king crab	Inactive	2	50.0	69.2	4
	Active	2	50.0	30.8	
Western Bering Sea <i>C. bairdi</i>	Inactive	79	52.7	45.3	150
	Active	71	47.3	54.7	
All fisheries	Inactive	112	54.1	NA	207
	Active	95	45.9		

Sources: NMFS RAM catch data for 2007-2008 through 2009-2010 and QS holder data for 2010-2011.

The option (also included in the preferred alternative) would create a second active participation threshold under which a person would receive C share IFQ, if the person received an initial allocation of C shares and had 30 days or more of participation in State of Alaska fisheries or federal fisheries off Alaska, in the 3 years preceding the application for IFQ. Under this provision, persons who received an initial allocation of C share QS who did not participate in the crab fisheries, but did participate in other fisheries in or off Alaska, would continue to receive annual allocations of IFQ for their C share holdings. This more liberal approach to active participation requirements would create substantially greater opportunity for C share QS holders who received an initial allocation to maintain their eligibility to receive annual allocations of C share IFQ. Yet, by limiting the applicability of the provision to persons who received an initial allocation, the provision maintains a relatively narrow scope. Examining crew participation in state and federal fisheries in and off Alaska provides some measure of the breadth of crew opportunities for maintaining active participation available to the 239 persons who received initial allocations of C share QS. Crew data for Alaska fisheries are incomplete, limiting the accuracy of any estimates of crew participation. Persons may participate either as a permit holder or as a licensed crewmember.²³ Each year approximately 30,000 persons are estimated to have fished in the region with more than half estimated to have fished as licensed crew and the remaining people fishing as permit holders. Many of these jobs are

²³ It should be noted that these "Alaska fisheries" include all state and federal fisheries (including the Bering Sea and Aleutian Island crab fisheries that are subject to the rationalization program).

short term positions in Alaska's summer salmon fisheries (Warren, 2010). Clearly, this broader provision creates a substantial opportunity for recipients of initial allocations to meet the 30 day participation requirement for any 3 year period, and continue to receive annual IFQ allocations.

This liberal approach to C share active participation requirements would substantially broaden the opportunity of persons formerly engaged in the crab fisheries who remain active in State of Alaska fisheries or federal fisheries off Alaska to continue to benefit from their C share interests. By requiring at least 30 days participation over a 3 year period, the provision retains some level of exclusivity, since it would require some minimum time commitment from a person otherwise removed from fisheries work to maintain C share IFQ eligibility. Supporters of the provision are likely to argue that the provision is a reasonable response to the displacement of persons by fleet contraction that occurred after rationalization. Persons active in the crab fisheries who wish to acquire C shares may oppose this provision, as it provides a substantial opportunity for C share QS holders to maintain those interests after leaving positions in the crab fisheries.

Estimates of the number initial recipients of C share QS meeting the requirement of 30 days of crew activity in any State of Alaska fishery or Federal fishery off Alaska during the 3 years preceding an IFQ allocation are not possible with existing data. However, estimates can be made of the number of initial recipients of C share QS that are active as permit holders. Using this measure, substantially fewer initial recipients of C share QS might be deemed inactive (and therefore ineligible for an annual IFQ allocation). Two aspects of this estimate should be borne in mind when considering it. First, only activity as a permit holder is counted. Most crewmembers do not participate as permit holders, so it is possible that some initial recipients of C share QS who have not participated as permit holders would qualify under this provision, because of their activity as a crewmember. Second, any activity as a permit holder is counted as active, since a 30-day participation threshold could not be estimated with available data. These factors could have a noticeable effect on estimates of C shareholder activity.

Under Alternative 2 (defining active participation requirements for C share QS holders to receive an IFQ allocation), a C shareholder who is not active in the crab fisheries for three consecutive years would not receive an annual IFQ allocation. Data suggest that, based on current C shareholder participation, it is possible that a substantial share of the C share QS pool would not be allocated IFQ in several of the fisheries, if these QS holders choose not to divest their shares to active crew. Broadening eligibility for IFQ for persons who received an initial allocation of C shares who maintain at least 30 days of activity in the region's commercial fisheries during the 3 years preceding the IFQ application will substantially increase the opportunity for those persons, but will have little long run effect, after initial recipients have left fishing.

Table 2-14. Number of initial recipients of C QS who continue to hold C share QS and are active as permit holders in any Alaska fishery in the 3 seasons (2007/2008 through 2009/2010) preceding the allocation of IFQ for the 2010/2011 fisheries.

Fishery	Active (as a permit holder in any Alaska fishery)	Number of initial recipients of C share QS	Percent of initial recipients of C share QS	Percent of C share QS	Total C share holders in the fishery
Bristol Bay red king crab	Inactive	61	29.3	39.3	208
	Active	69	33.2	52.2	
Bering Sea <i>C. opilio</i>	Inactive	54	17.8	39.5	304
	Active	61	20.1	51.9	
Eastern Aleutian Islands golden king crab	Inactive	5	35.7	38.4	14
	Active	5	35.7	48.4	
Eastern Bering Sea <i>C. bairdi</i>	Inactive	74	38.9	47.2	190
	Active	67	35.3	47.0	
Pribilof red and blue king crab	Inactive	22	33.3	50.0	66
	Active	17	25.8	50.0	
St. Matthews Island blue king crab	Inactive	33	29.7	45.5	111
	Active	32	28.8	49.1	
Western Aleutian Island golden king crab	Inactive	2	11.8	28.0	17
	Active	5	29.4	60.1	
Western Aleutian Island red king crab	Inactive	1	20.0	19.7	5
	Active	3	60.0	80.3	
Western Bering Sea <i>C. bairdi</i>	Inactive	74	41.8	47.2	177
	Active	67	37.9	47.0	
All fisheries	Inactive	98	47.3	NA	207
	Active	95	45.9		

Sources: ADF&G fish tickets (2008 - 2010) and RAM QS holder data.

Under the current rules, approximately 3 percent of the QS pool is allocated as C share QS. If these IFQ allocations are not made to C share QS holders who are not active, it is possible that the C share IFQ allocation could be reduced by as much as 50 percent (i.e., C share IFQ would total approximately 1.5 percent of the total IFQ pool, instead of 3 percent), if the Council chose to disqualify C shareholders who are not active in the crab fisheries from receiving C share IFQ. To ensure that C shares continue to be 3 percent of the IFQ pool, an option (included in the preferred alternative) is proposed that would maintain the portion of the total IFQ pool annually allocated as C share IFQ at the level determined by the Council (currently 3 percent). If this provision is adopted, the agency would annually allocate 97 percent of the IFQ pool to vessel owners and 3 percent of the IFQ to holders of C shares. The 3 percent allocation to C shareholders would be allocated only to C share QS holders that meet the active participation requirements based on their respective C share holdings. By separating the calculation of IFQ allocations to C share QS holders from allocations of IFQ to vessel owner QS holders, the allocation of IFQ to C share QS holders would be maintained at 3 percent of the total IFQ pool, regardless of whether some C share QS holders do not receive IFQ allocations because of their failure to meet active participation requirements. This approach to allocations could be justified, if the Council believes that the 3 percent IFQ allocation to active captains and crew should be maintained, regardless of whether some C share QS holders fail to meet the requirements for an annual allocation. To the extent that IFQ are reallocated to C share QS holders who meet active participation requirements, those shareholders will benefit from

increased allocations. The increase for each active C share QS holder would be proportional to share holdings relative to other active C shareholders. This benefit is clearly a windfall to active C shareholders. Yet, since C share IFQ are a relatively small part of the overall allocation of IFQ and C share caps are relatively low (see Table 2-2), the magnitude of the benefit from this reallocation is somewhat limited.

The withholding of annual IFQ allocations from C share QS holders not meeting active participation requirements could be complemented by Alternative 3, which would revoke C share QS from any holder, if that C share QS holder has not participated in a delivery in a crab fishery for 4 or 5 consecutive seasons. Under the preferred alternative, the share revocation would occur after 4 years of inactivity. The rationale for revoking C share QS from holders who are inactive in the fisheries for an extended period is that those shareholders effectively withhold these shares from other active captains and crew, who might wish to develop or expand their C share holdings.²⁴ Failing to revoke shares from inactive C shareholders, it is possible that some C shareholders may maintain their holdings for an extended period. The incentive for inactive C shareholders divesting their QS, absent a pending revocation, could be rather minor, especially for persons who received their C share QS in the initial allocation (see Table 2-8). For many of these persons, their relatively small annual IFQ allocations may draw little of their attention and the value of the underlying QS might be overlooked. For example, in the halibut and sablefish IFQ program, many small shareholders have never fished their IFQ, yet have not chosen to divest of those shares. So, without a revocation provision, it is possible that a portion of the C share QS pool could remain latent for extended periods of time, reducing the size and activity in the C share QS market. Estimates of the number of C share QS holders that would not receive annual IFQ allocations may also be viewed as preliminary estimates of the number of persons that could be affected by this provision (see Table 2-13).

In general, it is thought that most persons who would have their shares revoked under this provision would divest of their shareholdings prior to the revocation. In some instances, it is possible that persons may have their shares revoked. In these cases, the pool of QS would contract with the benefit of that contraction being distributed to remaining QS holders, in proportion to their QS holdings. If the Council adopts a provision that maintains C share IFQ as at specific share of the annual IFQ allocation, this benefit would be distributed only to C share QS holders, in proportion to their C share QS holdings. In either case, the benefit is likely to be relatively small, since it will be distributed across a group of QS holders and most C share QS holders are likely to divest, once they realize that their QS holdings will be revoked.

The Council motion also includes an option that would allow persons who received an initial allocation of C share QS to retain that QS (i.e., remain exempt from the revocation) provided that they have at least 30 days of activity in State or Federal commercial fisheries in or off Alaska in the preceding 4 or 5 years. Under the preferred alternative, initial recipients of C share QS who do not meet either the crab fishery active participation requirement or the 30 day activity requirement under this option for a period of four years would be subject to the C share QS revocation. Estimates of the number of C share QS holders who qualify to retain C share QS under this provision are also preliminary, because of the newness of the program. Those estimates are the same as estimates of the number of C share QS holders who would be eligible to receive C share IFQ under the parallel provision (see Table 2-14).

This alternative also contains options that would extend the time prior to which it takes effect. Under this provision, no required revocations would occur until between 5 and 10 years after implementation of the

²⁴ A rationale for requiring divestment could be to ensure 3 percent of the annual IFQ are allocated to active C share QS holders. A more direct and reliable method of ensuring that the 3 percent IFQ allocation could be through the suboption, assuming that option can be effectively implemented.

program or until 5 years after implementation of this action (The latter being the preferred alternative). Delaying implementation of the provision could allow participants time to assess the transition of the fishery under the new management program and determine whether they will be active in the new fishery. Extending implementation beyond 5 years would provide additional time for persons to decide whether to divest of their shares or become active. Any of the proposed implementation timelines should provide sufficient notice to C shareholders to allow them to prepare for implementation of the provision. The preferred provision, under which no revocations would take place until 5 years after implementation of this action, provides C shareholders with a grace period of certain time from completion of the regulatory process to ensure adequate notice. A more compressed timeline (such as 5 years after implementation of the program) could have some ramifications for C shareholders and those wishing to acquire C shares.

One concern of some current C shareholders is that a revocation option could flood the market with C shares, substantially diminishing their value. Given the portion of the C share pool held by persons who appear to be inactive, it is possible that a revocation provision could increase the shares in the market from persons divesting prior to their shares being revoked. The potential to flood the market, however, is limited to some degree by the 4 or 5 year inactivity threshold, which should provide participants with some notice of the future revocation. In addition, any extension of the timeline for implementing the provision would further mitigate this potential effect. Delay in imposition of the revocation provision will allow shareholders a window of time during which shares can be divested (prior to the revocation occurring), which should disperse the flow of shares into the market. Yet, given the large number of C shareholders that appear to be inactive, it is possible that a large portion of that pool could come into the market over a period of 2 or 3 years, even under the extended timeline. This effect will also be mitigated in part by the nature of the C share allocation and pool. Even if as much as 50 percent of the C share pool comes on to the market, it will be only 1.5 percent of the entire QS pool in a fishery. Under the most limited eligibility provision for acquisition of C shares, as many as 600 persons are currently qualified to acquire C shares. Given these factors, in most fisheries, divestment that occurs prior to revocation should not have a great effect on the market. It is possible that in the Aleutian Islands golden king crab fisheries, which have few participants, the market for C shares could be small enough to allow some interested buyers to take advantage of the divestment that might occur to avoid revocation. Whether this market power would result depends on whether participants in those fisheries are willing to compete for the C shares and whether participants in other fisheries (who would satisfy a general active participation requirement) would be interested in acquiring the shares.

The overall effect of the C share IFQ eligibility and the C share QS revocation provisions is that, over time, C share QS will be held by persons meeting the minimum participation threshold specified by the applicable provisions. Persons who hold C share QS, but do not meet the applicable participation threshold, will either divest of their C share holdings (or, if the revocation provision is adopted and they fail to divest, have their shares revoked). These persons (including persons intended to benefit from the initial allocation) will have an opportunity to receive a benefit from their C share QS holdings through the sale of that QS to persons eligible to acquire those shares. Although the provisions governing eligibility to acquire C shares and the provisions limiting those who may receive C share IFQ and retain C share QS holdings will affect the pool of persons in the C share market as buyers, a substantial number of persons are likely to be eligible and interested in C share acquisition. As result, the C share QS prices are likely to be lower than owner QS prices, but a market for those shares will exist.

The Council also included for consideration an option to exempt persons who received an initial allocation of C shares and who are over 60 years of age from any active participation requirements applicable to any C share QS received in the initial allocation. So, persons meeting these criteria would not be required to participate in any fisheries as captain or crew to continue to receive C share IFQ from

their initial allocation of C share QS or to retain C share QS holdings received in the initial allocation. Data are not available to determine the specific number of persons who would qualify for this exemption, but the number of persons who currently hold C share QS received in the initial allocation is an upper bound on potential eligibility (see Table 2-14 for counts of active and inactive initial recipients of C share QS by fishery). A large majority of the current C share QS holders in each fishery received initial allocations of C shares, but several may not qualify for the exemption based on their ages.

The Council's rationale for considering this exemption is not clear. It would appear that the Council was interested in ensuring that older initial recipients of C share QS are able to retain that QS and derive annual allocations from it. The rationale for applying an age limit to the exemption is not apparent. Stock fluctuations would appear to make crab QS a relatively risky investment. Increasing the incentive for older people to retain risky interests would appear to run counter to investment norms. If the objective is to prevent inactive persons from losing annual allocations or being required to sell very soon after receiving the initial allocation, the length of the grace period during which application of revocation is suspended could be extended and a grace period could be applied to eligibility to receive IFQ. These grace periods could benefit initial recipients of C share QS by increasing the value of that QS, particularly if stock growth increases TACs or leads to opening of fisheries that have been closed in recent years. On the other hand, stock and TAC declines could pose a similar risk of loss to QS holders.

Effects on management

Implementation of either of the provisions revising active participation requirements for C share holders is likely to be challenging administratively and logistically. The first option would require a C share QS holder to be active in a crab fishery in the three seasons preceding issuance of IFQ. Effective implementation must include a process for submission of documentation of participation and an opportunity for appeal to the person whose IFQ are withheld. Until the finding that IFQ may be withheld is final, IFQ would need to be reserved to ensure shares are available in the event the C share QS holder prevails. Typically, NMFS makes all allocations of IFQ at one time. To effectively withhold IFQ and redistribute that IFQ to others in the fishery requires that decisions concerning eligibility to receive IFQ be finalized prior to the allocation of any IFQ.

At the time the Council considered Amendment 31, the analysis provided a timeline to complete the processing of documentation of participation. That timeline would have split the IFQ application into two stages based on the IFQ application deadline (August 1) in effect at that time: a statement of participation used to verify compliance with active participation requirements and the remainder of the IFQ application. The analysis described in some detail the critical dates and the process that would be implemented to obtain participation information and process IFQ applications.

After the Council adopted Amendment 31, the Council adopted a regulatory amendment at its April 2011 meeting that, if approved by the Secretary of Commerce, would establish an earlier deadline for filing annual IFQ, individual processing quota (IPQ), and crab harvesting cooperative IFQ applications (from August 1 to June 15), and shorten the amount of time in which to appeal an initial administrative determination to withhold issuance of IFQ or IPQ (from 60 to 30 days). These changes alter the timeline and process that NMFS would use to implement the active participation requirements that were previously provided. The following explains the timeline and process that NMFS would follow to implement the active participations requirements.

Although the requirement for participation under the first option is based on activity in a three season period, since IFQ allocations are made annually, the most effective way to document participation is annually. Annual documentation limits staleness of information and could benefit both applicants and the

agency. Annual documentation will limit the potential for an applicant to have difficulty documenting participation because of dated records or unavailability of confirming evidence. Annual documentation will also help in agency processing of the application, since participation each year can be recorded and used to make an annual determination of whether a person has met the three-year active participation requirement.

To ensure that C share QS holders annually state whether they participated in crab fisheries or commercial fisheries within the State or Federal waters, the IFQ application would be modified to include a “statement of participation”. In short, a new block would be added to the annual IFQ application that would ask applicants to state whether the applicant had been active as defined by regulation in the crab fishing year preceding the year for which the applicant is applying. Applications for C share IFQ would be considered incomplete if the applicant fails to complete the statement of participation block. To be complete, the applicant would be required to include evidence demonstrating participation with the application (such as an affidavit from a vessel owner or other person on the vessel or a fish ticket evidencing a landing made as a permit holder) if the applicant answers YES.

Under the proposed regulatory amendment, a person would be required to apply for IFQ on June 15. Ideally, the proposed submission deadline should allow time for the agency to (1) inform applicants that their application is either incomplete or that the applicant has failed to meet the three-year participation requirements, (2) allow the applicant 30 days in which to submit information to complete the application or demonstrate the required participation, (3) issue an initial administrative determination (IAD) if the additional information fails to demonstrate participation or the applicant fails to submit additional information within the 30-day period, and (4) possibly resolve an appeal of the IAD prior to issuance of IFQ for the fisheries.²⁵ Moving the IFQ application deadline to June 15 would allow the agency to finalize some findings of failure to meet the active participation requirement, particularly those who do not appeal that finding, prior to IFQ issuance.

Depending on the agency’s ability to process appeals, it is possible that appeals that fail to assert that the active participation requirement was met (i.e., making no claim to support a favorable finding) could be summarily dismissed prior to the scheduled issuance of IFQ. In addition, the agency might be able to summarily dismiss cases involving late submissions that do not claim extraordinary circumstance beyond the appellant’s control. Creating a system that allows some decisions to be finalized prior to the issuance of IFQ will allow the provision for withholding IFQ to better serve its purpose, since IFQ would need to be reserved for any claims that are not finalized. Once findings are final, IFQ can be issued to all eligible persons. So, any determinations that are not finalized prior to scheduled issuance of IFQ may result in a portion of the IFQ pool not being allocated for the year, if the C share QS holder does not prevail in the appeal. Establishing a system that enables early finalization of eligibility decisions would minimize reserved, unissued IFQ.

Under the proposed regulatory amendment, a person would have 30 days to appeal an agency determination withholding issuance of IFQ. In considering the structure for resolving findings concerning active participation, it should be noted that any unresolved adjudications will have spillover effects, particularly if the Council adopts a mechanism to ensure that the IFQ pool allocated to active C shareholders is a specific portion of the total IFQ pool. **Since a portion of the IFQ pool must be reserved to address the possible successful claims of initially disallowed C share QS holders, it is assumed that IFQ reserved against those claims would count toward the C share IFQ pool.**

²⁵ Note that the denial notices would generally be issued only after three years without participation.

Depending on the level of active participation in the pool of C share QS holders, it is possible that a substantial portion of the C share QS pool could be made up of reserved, but unallocated IFQ, if decisions cannot be finalized for a substantial number of shares and the reserved shares are counted toward the C share IFQ allocation.

Administering the second option, which applies only to initial recipients of C share QS and requires 30 days of participation in one or more fisheries in Alaska in the 3 years preceding an IFQ allocation, to be eligible to receive C share IFQ, could use a similar timeline and structure, but the Council should be aware of some idiosyncrasies that are likely to arise. Several state and federal fisheries in or off Alaska are open between May 31st and the proposed June 15 IFQ application deadline. Applying this broader fishing activity toward a person's active participation requirement could complicate administration. A second clarification is that the 30-day participation requirement is probably most simply interpreted as a "sea time" requirement (similar to the sea time eligibility requirements for halibut and sablefish IFQ and crab IFQ acquisitions). Under these programs, persons are required to have meet threshold participation requirements by demonstrating sea time in commercial fisheries in a harvest capacity. To satisfy the proposed participation requirement, a person would need to demonstrate 30 days of sea time in a harvest capacity in fisheries in or off Alaska during the three year period preceding submission of the statement of active participation for the fishery.²⁶ Using the same timeline for active participation in fisheries in or off Alaska would allow managers to administer the provision finalizing as many active participation determinations prior to the issuance of IFQ as possible.

The option to maintain C share IFQ as a specific portion of total IFQ pool would be implemented by identifying the pool of C share QS that will receive IFQ, and allocating that portion of the IFQ TAC to those C share IFQ. Under the current system, C share QS is approximately 3 percent of the total QS pool, with division of the annual IFQ allocations between C share IFQ and owner IFQ generally close to the QS pool split. If a substantial amount of the C share IFQ is not issued, because of failure of C shareholders to meet active participation requirements, it is possible that C shares could be substantially less than 3 percent of the IFQ allocation. Finalizing determinations of active participation prior to IFQ issuance is critical to this provision having its intended effect. For any active participation determinations that are not final, IFQ must be set aside to cover the contingency of a successful challenge by the C share holder. Since IFQ would be set aside for a possible allocation to a C share holder, it is assumed that those IFQ would be characterized as C share IFQ for purposes of establishing 3 percent of the IFQ pool as C shares (whether or not those IFQ are ultimately issued). So, developing a system of administration that finalizes as many determinations of active participation as possible prior to the issuance of IFQ is critical to this provision achieving its intended purpose. The administrative timeline and process for resolving active participation determinations, proposed above, would likely best achieve the Council's objectives, if this option is selected.

The option to revoke C share QS from persons not meeting active participation requirements for a period of years could be implemented using the same process as used for implementing the requirements for IFQ allocations. The annual submissions of documentation of participation could be used to determine whether a person would have C share QS revoked, by considering activity in the requisite number of years preceding the submission of the most recent statement.

²⁶ The demonstration of active participation would rely on affidavits, similar to those required to demonstrate satisfaction of the active participation requirement in the crab fisheries. These affidavits could be required annually, with agency administrators tallying all activity in the preceding 3 years to determine whether a person has met the 30-day threshold.

As a part of the revocation process it is important that persons who are in jeopardy of having C share QS revoked, receive adequate notice of the revocation. Notice that allows these persons to divest of their holdings prior to the revocation would provide a few benefits. Shareholders who transfer their shares to avoid the revocation would receive a benefit from the transfer; persons active in the fisheries are likely to benefit from the increase in C share QS on the market, which would not occur, if the shares are revoked; C share QS holders that remain in the fishery would not receive an unintended windfall that would occur by the contraction of the C share pool from the share revocation; and administrators would save on the costs associated with the share revocation procedure, which could include time-consuming appeals. To ensure that C share QS holders have notice of a pending revocation, NMFS is likely to remind persons not meeting the active participation requirements of a pending revocation several times. Although the specific notices will be determined by administrators, persons are likely to receive annual notices as a part of the IFQ application process and at least one additional notice during the year of the revocation. These notices should provide adequate time for a C share QS holder to find a buyer prior to the revocation.

2.4.3 Net benefits to the Nation

Although this action will have distributional effects on persons holding or interested in holding C shares, it will not noticeably affect production from the fisheries. As a consequence, this action is likely to have a small, but positive effect on net benefits to the Nation.

3 Regulatory Flexibility Analysis

3.1 Introduction

The Regulatory Flexibility Act (RFA), first enacted in 1980, and codified at 5 U.S.C. 600-611, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a federal regulation. Major goals of the RFA are 1) to increase agency awareness and understanding of the impact of their regulations on small business; 2) to require that agencies communicate and explain their findings to the public; and 3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) “certify” that the action will not have a significant adverse effect on a substantial number of small entities, and support such a certification declaration with a “factual basis”, demonstrating this outcome, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

Based upon a preliminary evaluation of the proposed alternatives, it appears that “certification” would not be appropriate. Therefore, this IRFA has been prepared. Analytical requirements for the IRFA are described below in more detail.

The IRFA must contain:

1. A description of the reasons why action by the agency is being considered;
2. A succinct statement of the objectives of, and the legal basis for, the proposed rule;

3. A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
4. A description of the projected reporting, record keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
5. An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule;
6. A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:
 - a. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
 - b. The clarification, consolidation or simplification of compliance and reporting requirements under the rule for such small entities;
 - c. The use of performance rather than design standards;
 - d. An exemption from coverage of the rule, or any part thereof, for such small entities.

The “universe” of entities to be considered in an IRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (e.g., user group, gear type, geographic area), that segment would be considered the universe for purposes of this analysis.

In preparing an IRFA, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule (and alternatives to the proposed rule), or more general descriptive statements if quantification is not practicable or reliable.

3.1.1 Definition of a Small Entity

The RFA recognizes and defines three kinds of small entities: (1) small businesses; (2) small non-profit organizations; and (3) and small government jurisdictions.

Small businesses: Section 601(3) of the RFA defines a “small business” as having the same meaning as a “small business concern,” which is defined under Section 3 of the Small Business Act. A “small business” or “small business concern” includes any firm that is independently owned and operated and not dominate in its field of operation. The U.S. Small Business Administration (SBA) has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates primarily within the United States, or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor. A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust, or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The SBA has established size standards for all major industry sectors in the U.S., including commercial finfish harvesters (NAICS code 114111), commercial shellfish harvesters (NAICS code 114112), other commercial marine harvesters (NAICS code 114119), for-hire businesses (NAICS code 487210), marinas (NAICS code 713930), seafood dealers/wholesalers (NAICS code 424460), and seafood processors

(NAICS code 311710). On June 12, 2014, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The new size standards were used to prepare the IRFA for this proposed rule.

A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of \$20.5 million, for all its affiliated operations worldwide. For commercial shellfish harvesters, the same qualifiers apply, except the combined annual gross receipts threshold is \$5.5 million. For other commercial marine harvesters, for-hire fishing businesses, and marinas, the same qualifiers apply, except the combined annual gross receipts threshold is \$7.5 million.

A business primarily involved in seafood processing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment, counting all individuals employed on a full-time, part-time, or other basis, not in excess of 500 employees²⁷ for all its affiliated operations worldwide. For seafood dealers/wholesalers, the same qualifiers apply, except the employment threshold is 100 employees.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party, with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities, solely because of their common ownership.

Affiliation may be based on stock ownership when: (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50% or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or have the power to control less than 50% of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority

²⁷ In determining a concern's number of employees, SBA counts all individuals employed on a full-time, part-time, or other basis. This includes employees obtained from a temporary employee agency, professional employee organization or leasing concern. SBA will consider the totality of the circumstances, including criteria used by the IRS for Federal income tax purposes, in determining whether individuals are employees of a concern. Volunteers (i.e., individuals who receive no compensation, including no in-kind compensation, for work performed) are not considered employees. Where the size standard is number of employees, the method for determining a concern's size includes the following principles: (1) the average number of employees of the concern is used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months; (2) Part-time and temporary employees are counted the same as full-time employees. [PART 121—SMALL BUSINESS SIZE REGULATIONS §121.106]

holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors, or general partners control the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint ventures if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small non-profit organizations The RFA defines “small organizations” as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000.

3.2 A description of the reasons why action by the agency is being considered

The Council developed the following purpose and need statement defining its rationale for considering this action:

Owner on board requirements and leasing prohibitions on C shares are scheduled to go into effect after the third year of fishing under the program. Those rules may be overly burdensome to active captains and crew given the current fleet fishing patterns in which vessels may not be active in all fisheries some years. Also, under the current rules in the program, C shareholders that are cooperative members are exempt from owner on board requirements and leasing prohibitions. Revisions to the current participation requirements are necessary to establish reasonable participation requirements for C shareholders and to ensure that the all C shareholders remain active in the fisheries.

The current requirement that a person have participated in the fishery during the 365 days preceding an acquisition of C shares has the effect of preventing some displaced long-time captains and crew from acquiring share holdings that would be useful for securing or maintaining position in the fisheries. A revision to the current requirements for active participation could address this problem by providing long-term participants with the opportunity to acquire shares.

3.3 The objectives of, and the legal basis for, the proposed rule

This action has two parts which serve separate objectives. The first part of the action is intended to accommodate captains and crewmembers who were displaced by fleet consolidation that occurred at the time the crab rationalization program was implemented. Under the current rules, only active captains and crewmembers eligible to acquire C shares. The first part of the action is intended to allow persons displaced from captain and crew positions to acquire C shares for a transitional period of 5 to 10 years. The second part of the action is intended to ensure that persons who hold C share QS are active in the fisheries. The second part will require C shareholders to meet minimum active participation requirements

to continue to receive C share IFQ and to continue to hold C share QS.²⁸ These limitations will ensure that C share QS holders maintain some minimum participation level in the fisheries as captains and crew.

Under the current regulatory structure, Bering Sea/Aleutian Islands crab resources are managed by NMFS and the State of Alaska, under the FMP. The authority for this action and the FMP are contained in the Magnuson-Stevens Act, as amended by the Consolidated Appropriations Act of 2004.

3.4 A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply

Estimates of the number of entities directly regulated by this action are complicated by limited information.

The first part of the action regulates entities who received an initial allocation of C share QS under the program who are no longer participating in the fisheries. Approximately 239 entities received an initial allocation of C shares. Of the 239, 179 entities still hold C share QS, and 109 of those entities are no longer actively participating as captain or crew in the crab fisheries. Therefore, about 70 entities that received an initial allocation are still participating as crew in the CR Program fisheries. In addition, the first part of the action directly regulates entities that were active in the crab fisheries as captain and crew prior to the rationalization program who are no longer active as captain or crew and did not receive an initial allocation. Approximately 900 entities are believed to meet these criteria (including persons who received an initial allocation of C shares).

The second part of the action regulates C shareholders. A total of 179 entities currently hold C share QS. However, only 70 of those entities still participated, by having at least one landing, in the 2009/2010, 2010/2011, 2011/2012, or 2012/2013 crab fishing years. The action also includes separate regulations that would apply only to entities who received C share QS. This subset of C share QS holders would be subject to the specific regulation that applies only to initial recipients of C share QS.

Although all C shares are held by individual entities that can be specifically identified, some C shareholders have substantial interests in entities holding vessel owner shares, as well as interests in vessels participating in other fisheries. Since these entities frequently operate under different names, fully identifying the interests of C shareholders is not possible. All individual entities that hold C shares are believed to be small entities.

3.5 A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule

The reporting, recordkeeping, and other compliance requirements of the proposed rule will require some changes for certain fishery participants. Entities wishing to acquire C shares that are currently ineligible, because of they are not currently participating as captains or crew, but that will be eligible, because of past participation, will be required to submit evidence of past participation in the form of fish tickets or affidavits. While these requirements will impose some burden on applicants, the requirements are the minimum necessary to verify satisfaction of the participation standards.

²⁸ The implementation of the active participation requirements for C shareholders on an individual rolling basis will ensure that entities who acquire C shares under the transitional eligibility provisions have an opportunity to reenter the fisheries as captains and crew and have a full period in which to satisfy participation requirements prior to withholding any C share IFQ or revoking C share QS.

Entities holding C share QS will also be required to submit verification of their compliance with participation standards necessary for the receiving C share IFQ and to maintain their C share QS holdings. Since C share QS holders must meet participation standards to receive annual IFQ allocations and retain C share QS, the reporting requirements are structured to determine compliance with those standards. Although participation requirements are based on the preceding 3 to 5 years of fishing activity, reporting is on an annual basis. The annual requirement serves two purposes. First, it aids both C share QS holders and administrators by preventing information from becoming stale and difficult to verify. If a C share QS holder is required to provide third party verification of participation from 5 years prior to a report being filed, it may be difficult to locate third parties able to verify that participation. Annual reporting requirements also aid both administrators and C share QS holders by providing administrators with information needed to provide timely notices to these QS holders of possible consequences of their failure to meet the requirements. For example, if a C share QS holder has failed to meet active participation requirements for two consecutive years, the third year application can inform the C share QS holder that annual IFQ allocations will be withheld the next year, if those requirements are not satisfied in the third year. In summary, the additional reporting requirements arising under this action are structured to ensure accurate determinations of compliance with rules and to provide reasonable notices and opportunity to entities that are in jeopardy of being affected by non-compliance.

3.6 An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule

The analysis uncovered no federal rules that would conflict with, overlap, or be duplicated by the pilot program alternatives.

3.7 A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities

Two actions are included in this amendment package. One action addresses eligibility criteria for the acquisition of C shares. The second addresses active participation requirements for entities holding C share QS. Descriptions of these alternatives and alternatives that would mitigate adverse effects on small entities are included below.

Alternatives to change eligibility to acquire C shares

The action includes two alternatives defining entities receiving transitional eligibility to acquire C shares, both of which are included in the preferred alternative. One alternative would create eligibility for entities that received initial allocations of C share QS. These entities would all be eligible to acquire C shares under the first alternative under consideration. While the alternative to extend transitional eligibility to recipients of initial allocations of C shares would address their concern, the provision will not help certain small entities that may be similarly aggrieved under the current active participation requirements.

The second alternative would allow entities that participated in at least one of the rationalized fisheries during 3 of the 5 years preceding implementation of the rationalization program to acquire C shares. An option was considered that would create eligibility for entities that demonstrated activity in 2 of the 3 years preceding implementation of the program. That option, however, may disadvantage longer-term participants in the crab fisheries by adding competition in the C share market.

To balance the interests of entities receiving transitional eligibility and those already eligible to acquire C shares (because of their current participation in the fisheries), transitional eligibility under the preferred alternative will apply for a period of 4 years from the implementation of this action. Entities provided eligibility by this action who wish to purchase shares will benefit from the ability to compete for their purchase. Entities active as captains and crew in the fisheries are likely to be disadvantaged by an increase in competition for C shares that could arise from providing transition eligibility to entities no longer active in the fisheries.

Alternatives to change active participation requirements for C shareholders

Two alternatives, both of which are included in the preferred alternative, that would change the active participation requirements for C shareholders were considered. Under the first alternative, C share QS holders who have not participated in at least one of the crab fisheries for a period of three consecutive years would not receive an annual allocation of IFQ. The provision is intended to ensure that C shareholders remain active in the fishery without penalizing C share QS holders for brief periods of inactivity.

An option included in the preferred alternative would allow entities that received an initial allocation of C share QS, but that are not active in the crab fisheries, to receive annual IFQ allocations provided they have at least 30 days of participation in State of Alaska fisheries or federal fisheries off Alaska in the 3 years preceding the allocation. This more liberal approach to active participation requirements for C share QS holders would provide substantially greater opportunities for entities that received initial allocations of C share QS to receive annual allocations of C share IFQ. The provision is intended to mitigate effects on entities with historical participation necessary to receive an initial allocation that were displaced by fleet contraction that occurred after the program was implemented.

Under the current rules, approximately 3 percent of the QS pool is allocated as C share QS. If these IFQ allocations are not made to C share QS holders that are not active, it is possible that the C share IFQ allocation could be reduced by as much as 50 percent (i.e., C share IFQ would total approximately 1.5 percent of the total IFQ pool, instead of 3 percent). To ensure the C share IFQ pool remains at the percentage intended by the Council, an option is included in the preferred alternative that would maintain the C share IFQ issuance at the percentage set by the Council (which is currently 3 percent). Under this provision, the agency would annually allocate 97 percent of the IFQ pool to vessel owners and 3 percent of the IFQ to holders of C shares. The 3 percent allocation to C shareholders would be allocated only to C share QS holders that meet the active participation requirements based on their respective C share holdings. By separating the calculation of IFQ allocations to C share QS holders from allocations of IFQ to vessel owner QS holders, this provision will mitigate disproportionate adverse effects on small entities who hold C shares by maintaining the C share pool as 3 percent of the total IFQ pool regardless of whether some C share QS holders do not receive IFQ allocations because of their failure to meet active participation requirements.

The withholding of annual IFQ allocations from C share QS holders not meeting active participation requirements is complemented in the preferred alternative by a provision that would revoke C share QS, if active participation requirements are not met for a period of 4 consecutive years. The rationale for revoking C share QS is that holders who are inactive for an extended period effectively withhold these shares from other active captains and crew (who are small entities), who might wish to develop or expand their C share holdings. Failing to revoke these shares, it is possible that some C shareholders may maintain their holdings for an extended period. The incentive for inactive C shareholders divesting their QS, absent a pending revocation, could be rather minor, especially for entities that received C share QS in the initial allocation.

This alternative also contains a provision that would not revoke any shares until 5 years after implementation of this action was selected for inclusion in the preferred alternative. This provision is intended to mitigate negative effects on C shareholders (i.e., small entities) who might have shares revoked on implementation of this action. Delaying implementation of the provision is intended to allow participants time to assess the transition of the fisheries under the new management to determine whether they will be active in the fisheries. Two other options to delay revocations were considered. Under the first, no revocations would take place until 5 years after implementation of the rationalization program. This provision would implementation option would provide between one and two years notice of the revocation from implementation of this action to C shareholders that are inactive. The second option extended the period to 10 years after implementation of the rationalization program would provide an additional 5 years, which would mean approximately 7 years notice from implementation of this action. The option included in the preferred alternative (which would begin revocations 5 years after the amendment is implemented) is believed to provide greater certainty for C share QS holders who might be required to divest of their share holdings.

Alternatives to the proposed action

Alternatives to the proposed action (including the status quo) would either allow more liberal participation rules, requiring little or no active participation in the fisheries to maintain C share holdings or more constraining requirements, which require greater levels of participation. The more liberal alternatives are believed to be inconsistent with the intent of creating a C share pool for use exclusively by entities actively fishing. Those alternatives would require very little fishery participation, which runs counter to the intent of ensuring that a small share of the QS pool is held by entities active in the fisheries. The less liberal alternatives are believed to be overly constraining, given the fleet consolidation and other changes in the fishery under the rationalization program. With fewer vessels active in the fisheries, greater competition for crew jobs is believed to be an obstacle to maintaining active participation. By allowing entities to meet a minimal landing requirement to maintain their active participation status, the rule allows for some entities to miss some seasons, when crew jobs may be difficult to secure. The preferred alternative is believe to reach a reasonable balance between alternatives that would either allow extended absences from active participation in the fisheries and alternatives that require more constant participation, which fail to recognize the nature of the market for jobs in the fisheries.

In addition to the alternatives listed above, the Council also discussed whether or not to exempt individuals over the age of 60 from the proposed active participation requirements. However, after much discussion, the Council decided that exempting individuals over the age of 60 from the participation requirement would be contrary to the desired effect of this action, which is to ensure individuals holding crab QS are actively participating in the fishery. The action proposed under this rule provide ample time for individuals to become active, if they would like. If not, it also provides ample time for individuals to sell their QS, if they no longer want to remain active within the crab fisheries.

4 National Standards and Fishery Impact Statement

4.1 National Standards

Below are the ten National Standards as contained in the Magnuson-Stevens Fishery Conservation and Management Act, and a brief discussion of the consistency of the proposed alternatives with each of those National Standards, as applicable.

National Standard 1

Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

Nothing in the proposed alternatives would undermine the current management system that prevents overfishing.

National Standard 2

Conservation and management measures shall be based upon the best scientific information available.

The analysis draws on the best scientific information that is available, concerning the Bering Sea and Aleutian Island crab fisheries. The information that is available has been provided by the managers of these fisheries, as well as by members of the fishing industry.

National Standard 3

To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The proposed action is consistent with the management of individual stocks as a unit or interrelated stocks as a unit or in close coordination.

National Standard 4

Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The proposed alternatives would treat all participants the same, regardless of their residence. The proposed change would be implemented without discrimination among participants and is intended to contribute to the fairness and equity of the program by ensuring that holders of C shares have requisite fishery participation. The action will not contribute to an entity acquiring an excessive share of privileges.

National Standard 5

Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

The action is intended to result in a more equitable distribution of interests in the fisheries and will not affect production efficiency in the fisheries. The purpose of the action is to address the concerns of those that have been unable to return or enter into the crab fisheries, because they did not receive an initial allocation of crab or they were unable to obtain a position on a vessel. The Council wants individuals to be active within the crab fishery. This action allows those that no longer want to fish to exit the fishery and those that do want to fish for grab an opportunity to become involved.

National Standard 6

Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

None of the alternatives would be expected to affect changes in the availability of Bering Sea and Aleutian Island crab resources each year. Any such changes would be addressed through the annual allocation process, which is not affected by the alternatives.

National Standard 7

Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

The management action will not duplicate other measures and will have minor (but unavoidable) effects on costs of management, which will be incurred in implementing these measures.

National Standard 8

Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

This action is anticipated to have no effects on communities. The action will not jeopardize sustained participation of any community in the fishery.

National Standard 9

Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

Implementing this action will have no effect on bycatch.

National Standard 10

Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

Implementing this action will have no effect on safety of human life at sea.

4.2 Section 303(a)(9) – Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that any management measure submitted by the North Pacific Fishery Management Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. The impacts of the alternatives on participants in the harvesting sector and processing sector have been discussed in previous sections of this document. This action will have no effect on participants in other fisheries.

5 References

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