



# NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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## Action Memo

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**Dan Hull, Chairman**  
**Chris Oliver, Executive Director**

**SUBJECT:**  
BSAI Crab Binding Arbitration Formula - Discussion Paper

**STAFF CONTACT:** Sarah Marrinan

**ACTION REQUIRED:**  
Review discussion paper to consider operational costs in the crab arbitration system; take action as necessary.

**BACKGROUND:**

During the 10-year review of the Bering Sea/ Aleutian Islands (BSAI) crab rationalization program (CR Program), processor representatives testified to the Council about the impact to their sector due to the recent increases in Alaska minimum wage. They asked the Council to allow for the consideration of this cost in the non-binding price formula, so that its financial burden would not be fully levied on their sector.

In June 2016, the Council directed staff to produce a discussion paper on the non-binding price formula that is a part of the Arbitration System. The Council asked that the discussion paper analyze the changing operational costs of crab IFQ/IPQ holders and the impacts of maintaining the historical distribution of first wholesale revenue between crab harvesters and processors, given the possible changes in operational costs. The analysis also reviews the current criteria used by the non-binding price formula arbitrator in order to allow the Council to determine if operational cost changes to the participants in the crab fisheries should be considered in setting the non-binding price formula. In past interpretations of these standards, operational costs were not one of the factors to be considered by either the price formula arbitrator or the contract arbitrator.

If the Council decides that operational costs are warranted for consideration in the price formula, it could initiate a regulatory amendment package to change the language of the standards. If the Council determines there is already space in the current standards for allowing for the consideration of some costs, it could also clarify that interpretation. If the Council determines that practical challenges associated with identifying and calculating the variable costs appropriate for inclusion in the price formula, as well as the risk of creating perverse incentives for inefficiency are too great, it could clarify that the status quo interpretation of the standards would prevail and operational cost should not be considered in the price formula or by the contract arbitrators.