

**ALASKA BOARD OF FISHERIES
CDQ CRAB FINDINGS
99 - 189 - BOF**

The Board of Fisheries (board) met in Anchorage, Alaska from March 18 to March 28, 1999. During this meeting, the board discussed an agenda change request (ACR 27) filed by Alaska Crab Coalition. ACR 27 proposed restricting Community Development Quota (CDQ) groups from fishing a portion of their CDQ crab prior to the main crab fisheries, which was allowed under the existing CDQ crab management plan (5 AAC 39.690)

Background

The board approved a crab CDQ management plan in March 1997 using a commissioner's permit. During a presentation by state staff at the March 1997 board meeting, the board was informed of the possibility that the department might allow preseason CDQ crab fishing if ADF&G (department) staff could be convinced there would not be any major management problems conducting a preseason fishery. The department made it clear during staff testimony that there would not be any preseason CDQ crab fishing during the first year of CDQ fishing (RC 193). This hiatus would allow the department to understand the differences of the CDQ fishing from open access fishing. After the 1998 opilio CDQ fisheries were completed without significant problems, the department staff were willing to allow preseason CDQ fishing for the 1999 opilio season, if all conditions of the commissioner's permit were met.

For comparison, National Marine Fisheries Service (NMFS) allows CDQ groups to conduct preseason CDQ fishing for several groundfish species.

NPFMC

The North Pacific Fishery Management Council (council) discussed preseason CDQ crab fishing during its October 1998 meeting. The council deferred the issue to the State of Alaska to be addressed by the Board of Fisheries in the March 1999 meeting.

CDQ Agenda Change Request 27

The board passed the existing regulation 5 AAC 39.690(e)(7) in March of 1997. During the adoption of the board proposal that led to this regulation, the board thoroughly evaluated the proposal against the FMP, the national standards and other applicable law. Because it was not challenged, this regulation has withstood Secretarial review and the FMP appeals process. Before the regulation was actually implemented, the board agreed, at its October 1998 work session, to reconsider this regulation in respect to industry concerns and approved ACR 27.

The Pacific Northwest Crab Industry Advisory Committee (PNCIAC) endorsed ACR 27 during its January 6, 1999 meeting in Seattle. The vote was 7 for, 2 abstain (RC 37). Their concerns were that opening CDQ fisheries prior to the open access fisheries will have negative market impacts and fair start implications.

March 1999 Board Meeting

The board met in Anchorage from March 19 - 28, 1999. During that time, the board considered the issue of preseason CDQ crab fisheries.

The department presented reports and material pertinent to ACR 27, along with verbal testimony. The department was neutral on this issue.

There was oral and written public testimony presented on preseason CDQ crab fishing. The majority of the Bering Sea crab fleet did not want the board to allow preseason CDQ fishing and favored ACR 27. CDQ group representatives testified against ACR 27, since preseason fishing would be a way to optimize the value of their quota. The groups noted that prices received for preseason CDQ crab could offset decreased prices for post-season CDQ crab.

The board's in-meeting committee met on March 21, 1999 at the Captain Cook Hotel. Supporters of the proposal raised fair start issues, possible negative economic impacts and product quality concerns. They argued that, if the CDQ vessels fished snow crab prior to the open access red king crab fishery, they would have an advantage with the knowledge of recent crab distribution (exploratory fishing). Most comments centered around the economic impact of the CDQ fishery putting any amount of crab on the market prior to or during price negotiations (export and ex-vessel) and they were concerned that it would most often be a negative impact. They were additionally concerned that a preseason CDQ harvest would place poor quality crab on the market, which would have a negative economic impact the open access fleet. They commented that CDQ groups already have a guaranteed harvest allocation and that if the groups were concerned about post season prices and scratch fishing, they could fish during the open access fishery.

Opponents of ACR 27, argued for status quo within the guidelines of their public testimony. They also stated it was not in the CDQ groups' best interest to market poor quality crab, that they would be harvesting only 50% of their 7.5% CDQ allocation and that any advantage to the groups would even out by harvesting picked over crab after the open access fishery. There was no consensus for a public panel recommendation nor was there a board committee recommendation. There was discussion about a proposal which essentially held the provisions of the industry compromise. The issue needed board debate.

ACR 27 was discussed on March 25 and 26, 1999. The board began by discussing Committee D's summary, and moved to the PNCIAC's recommendation. The board clarified points with department staff and discussed whether there were any enforcement problems. The board discussed an impending agreement between the two interested parties and tabled the issue to the following day in anticipation of receiving an agreed upon compromise. Overnight, a compromise was reached by several of the industry participants and the CDQ groups. The language was presented to the board at 9 a.m. on March 26. After some discussion addressing national

standards, health of stocks, and fair start, the board again tabled the issue and designated a period for reviewing public input on the industry compromise. After reviewing public comments, the board addressed possible conflicts on fair start issues by reconsidering proposal 355 before resolving the CDQ preseason fishing option. In the final debate, the board covered the Magnuson-Stevens Act national standards, the size and health of the resource, the criteria and standards incorporated into the March 1997 CDQ management plan, and the relatively small amount of crab that would be on the market early if preseason fishing were allowed. The board decided to accept the general principles of the compromise item.

Board Decision

The board noted that its action was, in some ways more restrictive than the original proposal, acknowledging that the original proposal was only to restrict the timing of CDQ fisheries. The percentage the CDQ groups were allowed to harvest preseason was reduced from the existing 50% to 30%. Another added restriction was the 50 million pound minimum GHL provision, which eliminated the possibility of a preseason CDQ fishery for most of the smaller CDQ fisheries, such as the St. Matthew, Pribilof, and Bristol Bay fisheries, at least in the foreseeable future. The Board confirmed on the record that this action would not except the CDQ fisheries from the restrictions of the preseason 14-day stand down period for opilio and the 30-day stand down period for king and bairdi fisheries adopted earlier by the Board. In other words, any vessel or person that participated in a preseason CDQ fishery during the applicable stand down period would be ineligible to participate in the open access fishery.

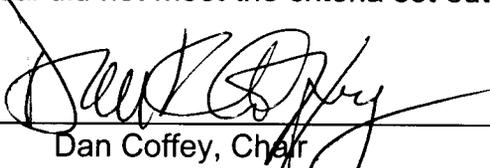
The board's action in March 1999 provided more definition and restrictions to the existing regulation to recognize some of the concerns of industry, yet balance the needs of the CDQ groups.

Appeal

The board's decision on preseason CDQ fishing was appealed by Alaska Fisheries Conservation Group. The appeal cited lack of specific Congressional approval and not meeting national standards.

A Board of Fisheries teleconference on the appeal of ACR 27 (among others) was held on May 14, 1999. The board found the appeal did not meet the criteria set out in 5 AAC 39.998 and denied the appeal.

ADOPTED: Oct. 29, 1999
Fairbanks, Alaska



Dan Coffey, Chair
Alaska Board of Fisheries

VOTE: _____