

Description of Action Taken or Considered, and Rules Implemented in the BSAI Crab Rationalization Program Between 2010 to 2015

1. Amendment 44 (KTC FMP): Modifications to Community Provisions and Trailing Amendment
Date of Council Final Action: February 2013; October 2014 Trailing Amendment
Status: Under NMFS Regional Review

Amendment 44 includes five actions that will modify right of first refusal (ROFR) provisions that provide eligible crab community entities with the opportunity to purchase processor quota shares and other associated assets proposed for sale. This action will 1) extend the amount of time allowed for eligible crab community entities to exercise and perform a ROFR contract; 2) remove or modify provisions that allow the ROFR to lapse under specific conditions; 3) provide flexibility for eligible crab community entities and processor quota shareholders to apply a ROFR only to mutually-agreed upon assets; and 4) revise reporting requirements to eligible crab community entities and NMFS of any pending transfers of processor quota shares. The final addition to this package was action taken to include in a trailing amendment will amend regulations to separate the annual individual fishing quota/individual processor quota application into two separate applications, and revise reporting requirements for cooperatives.

The Council elected to maintain the status quo with respect to three additional ROFR issues considered in the package. Under the status quo, the rights of first refusal apply to all assets in a transaction that includes the subject processor shares. The Council considered (and rejected) alternatives that would have applied the right to either 1) the processor shares only or 2) the processor shares and assets based in the protected community. The second of these actions would have required community entity consent for any use of processor shares outside of the community that is protected by the right. Under the status quo, processor shares may be used in any location (subject to any applicable regional use restrictions). Finally, the Council chose to adopt the status quo of no action on an item which would have allocated up to 0.55 percent of the Bristol Bay red king crab processing quota share pool to Aleutia Corporation (a right holding entity) to address a grievance concerning a ROFR that it formerly held on shares in that fishery.

2. Crew provisions discussion paper
Date of Council Final Action: Last considered in February 2013; This document was never moved to Final Action
Status: No Council or NMFS action at this time

The 5 year review highlighted several concerns regarding active participation and equitable crew provisions in the program. Particularly, the Council became interested in: 1) the transfer of QS among non-active participants, 2) high lease rates for IFQ, 3) the amount of lease rate that is charged against crew compensation, 4) decline in the percent of gross vessel revenue attributed to crew compensation. A discussion paper informed the Council on the potential role of cooperatives in addressing these issues. After receiving the discussion paper, the Council requested that each cooperative in the program submit a voluntary report annually describing measures taken by the cooperative to facilitate share acquisitions by active participants and affecting high lease rates and crew compensation.

The Council received their first round of industry reports in December 2014. Council members remain interested in industry progress in these particular areas.

3. RIR/IRFA Active Participation

Date of Council Final Action: Last considered in February 2013; This document was never moved to Final Action

Status: No Council or NMFS action at this time

Currently, owner quota shares (QS), which makes up approximately 97 percent of the QS pool, may be acquired and held by an individual (or an entity owned in part by an individual) who has demonstrated 150 days of sea time in U.S. commercial fisheries. On receiving the 5-year review of the crab program, the Council considered action that would require ongoing crab fishery participation on the part of persons wishing to acquire and hold owner QS. The Council considered this issue to be intertwined with those highlighted in the Crew Provisions discussion paper which was presented at the same meeting. The Council elected to maintain regulatory status quo and instead allow the cooperative the opportunity to address active participation among the other issues underscored in the discussion paper.

4. Amendment 42 (KTC FMP): Revision of the Economic Data Reports

Date of Council Final Action: October 2012

Status: Final Rule implemented June 17, 2013

Amendment 42 revised the annual economic data reports (EDRs) currently required of participants in the crab fisheries of the rationalization program. The EDRs include cost, revenue, ownership, and employment data the Council, NMFS, and the AFSC use to study the economic impacts of the program on harvesters, processors, and affected communities. This action eliminated redundant reporting requirements, standardized reporting across participants, and reduced costs associated with the data collection.

5. Amendment 41 (KTC FMP): Emergency exemption from regional delivery requirements

Date of Council Final Action: December 2010

Status: Final Rule passed May 15, 2013; effective June 14, 2013

Amendment 41 amended the crab program by establishing a process whereby holders of regionally designated IFQ and IPQ in six crab program fisheries may receive an exemption from regional delivery requirements in the North or South Region. The six CR Program fisheries are Bristol Bay red king crab, Bering Sea snow crab, Saint Matthew Island blue king crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, and Pribilof Islands red and blue king crab. Regulations previously required that a portion of crab harvested in these fisheries be delivered and processed within the boundaries of the North or South Region. This action is necessary to mitigate disruptions in a crab rationalization fishery that prevent participants from complying with regional delivery requirements.

6. Amendment 30 (KTC FMP): Provisions Modifying the Arbitration System

Date of Council Final Action: April 2008

Status: Final Rule passed November 4, 2011; effective December 5, 2011

Amendment 30 amended the crab program to modify procedures for producing and submitting documents that are required under the Arbitration System to resolve price, delivery, and other disputes between harvesters and processors. This action improved the quality and timeliness of market information used to conduct arbitration proceedings.

7. Amendment 34 (KTC FMP): Revise Crab Sideboard Exemptions for the Gulf of Alaska Pacific Cod and Pollock Fishery
Date of Council Final Action: October 2008
Status: Final Rule passed June 20, 2011; effective 20, 2011

Amendment 34 amended the crab program to exempt additional recipients of crab quota share from Gulf of Alaska Pacific cod and pollock harvest limits, called sideboards, which apply to some vessels and license limitation program licenses that are used to participate in these fisheries. The Council determined that these recipients demonstrated a sufficient level of historical participation in GOA Pacific cod or pollock fisheries and should be exempt from the GOA Pacific cod and pollock sideboards. This action gave these recipients an opportunity to participate in the GOA Pacific cod and pollock fisheries at historical levels.

8. Action Item: Amendment 37 (KTC FMP): Exempting Western Aleutian Islands Golden King Crab from regional delivery requirements
Date of Council Final Action: April 2010
Status: Final Rule passed June 20, 2011; effective 20, 2011

Amendment 37 amended the crab program by establishing a process for eligible contract signatories to request that NMFS exempt holders of West-designated IFQ and IPQ in the Western Aleutian Islands golden king crab fishery from the West regional delivery requirements. Federal regulations required West-designated golden king crab IFQ to be delivered to a processor in the West region of the Aleutian Islands with an exact amount of unused West-designated IPQ. However, processing capacity may not be available each season. Amendment 37 prevented disruption to the Western Aleutian Islands golden king crab fishery, while providing for the sustained participation of municipalities in the region.

9. Amendment 31 (KTC FMP): C-Share Active Participation and Crab Rationalization Application Deadline Modification
Date of Council Final Action: April 2008
Status: Final Rule pending, Decision date March 13, 2015

Amendment 31 is intended to relax participation requirements for captains and crew in the crab program, and to modify the timing and preparation of specific documents that are currently required under the program. This action is necessary to fulfill the Council's intent that captain and crew quota shares are held by individuals who are actively participating in the crab program fisheries, to provide quota share acquisition opportunity to captains and crew who may have been displaced from employment in the crab program and were not initial recipients of quota shares, and to make the quota shares available to captains and crew who are new entrants into the crab program fisheries.

In addition, Amendment 31 includes an issue that was addressed separately in analysis, which will change the date of the cooperative, IFQ, and IPQ application deadline from August 1st to June 15th. The change would be intended to increase the likelihood that any dispute concerning an application could be resolved prior to issuance of IFQ and IPQ. The action would also shorten the timeline for appealing any initial determination concerning an application from 60 days to 30 days. Lastly, the action also includes a provision that an applicant who presents a copy of proof of timely filing would be presumed to have applied in a timely manner.