



C5 Crab Facility Use Caps

October 2023 Council Meeting

Action Memo

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Action Required:

1. Consider Initial Review Draft
2. Identify preliminary preferred alternative if warranted

BACKGROUND

This analysis addresses two proposed actions that would amend provisions under the Crab Rationalization Program for processing certain crab species in the Bering Sea and Aleutian Islands. The two actions under consideration are not mutually exclusive from each other and could be adopted in combination.

The first action would remove the 60 percent facility use cap on the processing of Eastern Aleutian Islands golden king crab and Western Aleutian Islands red king crab. This proposal originated from public comment letter reviewed by the Council in **June 2021**. The comment letter described a live crab market opportunity at one processor in Dutch Harbor and a desire for Eastern Aleutian Islands golden king crab harvesters and PQS holders that have no ownership interest in a processing facility to have access to this opportunity for the custom processing of their Eastern Aleutian Islands golden king crab IPQ. However, they have found the current 60 percent facility use cap to be constraining this opportunity. A discussion paper was prepared on this topic and considered for Council action in **February 2023**.

During this agenda item at its **February 2023** meeting, public comment brought forward an additional request to include exemptions to PQS/ IPQ use caps for custom processing for Bristol Bay red king crab and south- region designated Eastern Bering Sea snow crab in the analysis. In response, the Council established a purpose and need statement and set of alternatives encompassing both of these possible changes. The Council included the possible removal of the facility use cap for Western Aleutian Islands red king crab under Alternative 2 in addition to Eastern Aleutian Islands golden king crab, stating this is the only other fishery to which this regulation applies, and it may simplify regulations in a fishery that has been closed since 2004/05. The Council also included consideration of exempting the Western Aleutian Islands golden king crab IPQ processed east of 174° W longitude from the PQS/ IPQ use caps under Alternative 3 as this is the last CR Program fishery for which custom processing still counts towards the PQS/ IPQ use caps. The proposed Alternative 3 would therefore align the application of the PQS/ IPQ use caps across all CR Program fisheries.

Both proposed actions could permit the redistribution of crab processing by existing crab processing facilities or allow for consolidation of IPQ into a smaller number of facilities for specific fisheries. However, regional delivery requirements would not be changed under the proposed action nor would the 30 percent cap on the amount of PQS and IPQ that could be held or leased. The proposed actions could increase crab processing flexibility and efficiency in the identified CR Program fisheries by permitting IPQ holders to more efficiently utilize available facilities. This flexibility could limit operational disruptions in the case of recent and possible future low crab catch limits and may provide unaffiliated IPQ holders (i.e., IPQ holders with less than 10 percent common ownership in another crab processing

facility) and crab harvesters that have share-matched with these IPQ holders more processing market opportunities if there continues to be the same number or more processing facilities available.

Overall, the expected impacts from Alternative 2 and Alternative 3 are similar and extremely dependent on factors external to the decisions around changing the facility and PQS/ IPQ use caps. It is important to note that consolidation of processing capacity can (and has in some recent cases) occurred under the status quo regulations. As demonstrated in the Bering Sea Tanner fisheries in 2015, while use caps can guarantee market space, it does not guarantee that processing facilities will be available. Pathways for new processors to enter the market include purchasing PQS, leasing IPQ, or receiving deliveries of B or C class Individual Fishing Quota or Community Development Quota crab.

NOAA Office of Law Enforcement has consistently identified challenges with the monitoring and enforcement of PQS/ IPQ use caps. Correctly applying limits on PQS and IPQ ownership and use requires full knowledge of all associated holdings of those shares. Ownership interests in the crab fisheries are often indirect, and overlapping indirect interests create a complex web that must be fully assessed to ensure compliance with limits on caps. In addition, a series of exemptions related to PQS/ IPQ use caps for different fisheries and circumstances has created a complex regulatory structure with which to evaluate ownership and use of PQS/ IPQ against. It is expected that the proposed alternatives would reduce the monitoring and enforcement burden related to these caps. In particular, if these alternatives were adopted together, processing use caps regulations would be applied consistently across crab fisheries and both alternatives would limit monitoring and enforcement to PQS/ IPQ holdings.