

Fishery Management Plan

for

Bering Sea/Aleutian Islands

King and Tanner Crabs



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Acronyms, Abbreviations, and Definition of Terms used in the FMP

A note to the reader: Several acronyms and abbreviations are used throughout this FMP. In addition to the list below, please visit: <https://www.npfmc.org/library/acronyms/> for the most up to date compilation of frequently used acronyms and abbreviations.

The following terms are used extensively throughout this FMP, and as such are defined below:

Acceptable biological catch (ABC) is a level of annual catch of a stock that accounts for the scientific uncertainty in the estimate of the overfishing level (OFL), and any other specified scientific uncertainty. The ABC is set below the OFL to prevent, with a greater than 50 percent probability, the OFL from being exceeded.

ABC Control Rule is the specified approach in the five-tier system for setting the maximum permissible ABC for each stock as a function of the scientific uncertainty in the estimate of OFL and any other specified scientific uncertainty.

Annual catch limit (ACL) is the level of annual catch of a stock that serves as the basis for invoking accountability measures. For crab stocks, the ACL will be set at the ABC.

Commercial fishing means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels.

Essential Fish Habitat (EFH) means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of EFH: waters include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; substrate includes sediment, hard bottom, structures underlying the waters and associated biological communities; necessary means the habitat required to support a sustainable fishery and the managed species contribution to a healthy ecosystem; and “spawning, breeding, feeding, or growth to maturity” covers a species full life cycle.

Guideline harvest level (GHL) means the preseason estimated level of allowable fish harvest which will not jeopardize the sustained yield of the fish stocks set to prevent exceeding the ACL for that stock and in accordance with Section 3.5.2.

~~Guideline Harvest Level (GHL)~~ means the ~~preseason estimated level of allowable fish harvest which will not jeopardize the sustained yield of the fish stocks. A GHL may be expressed as a range of allowable harvests for a species or species group of crab for each registration area, district, subdistrict, or section~~

Habitat Conservation Areas: Areas where fishing restrictions are implemented for purposes of habitat conservation.

Habitat Conservation Zone: A subset of a habitat conservation area in which additional restrictions are imposed on fishing beyond those restrictions established for the habitat conservation area to protect specific habitat features.

Habitat Protection Areas: Areas of special, rare habitat features where fishing activities that may adversely affect the habitat are restricted.

Maximum sustainable yield (MSY) is the largest long-term average catch or yield that can be taken from a stock or stock complex under prevailing ecological and environmental conditions. MSY is estimated from the best information available.

F_{MSY} control rule means a harvest strategy which, if implemented, would be expected to result in a long-term average catch approximating MSY.

B_{MSY} stock size is the biomass that results from fishing at constant F_{MSY} and is the minimum standard for a rebuilding target when a rebuilding plan is required.

Maximum fishing mortality threshold (MFMT) is defined by the F_{OFL} control rule, which is annually estimated according the tier system, and is expressed as the fishing mortality rate.

Minimum stock size threshold (MSST) is one half the B_{MSY} stock size.

Optimum Yield (OY) The term optimum, with respect to the yield from a fishery, means the amount of crab which --

will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

is prescribed as such on the basis of maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor; and

in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

Overfished is determined by comparing annual biomass estimates to the established MSST. For stocks where MSST (or proxies) are defined, if the biomass drops below the MSST (or proxy thereof) then the stock is considered to be overfished.

Overfishing is defined as any amount of catch in excess of the overfishing level (OFL). The OFL is calculated by applying the F_{OFL} control rule, annually estimated using the tier system in Chapter 1.1 to abundance estimates.

Registration year is defined as June 28 through June 27 for king crab, and August 1 through July 31 for Tanner crab.

Registration (statistical) area. State of Alaska (State) regulations define a registration area as all the waters within the registration area which are territorial waters of Alaska; and an adjacent exclusive economic zone comprised of all the waters adjacent to a crab registration area and seaward to a boundary line drawn in such a manner that each point on the line is 200 nautical miles from the baseline from which the territorial sea is measured.

Subsistence Uses means the noncommercial, customary and traditional uses of wild, renewable resources by resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption.

Total allowable catch (TAC) is the annual catch target for the directed fishery for a stock, set to prevent exceeding the ACL for that stock and in accordance with Section 3.5.2.

ES 1 Executive Summary

This Fishery Management Plan (FMP) governs crab fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI). The FMP management area is the United States (U.S.) Exclusive Economic Zone (EEZ) of the Bering Sea and Aleutian Islands is defined as those waters lying south of the Chukchi Sea statistical area east of the 1990 U.S./Russian maritime boundary line, and extending south of the Aleutian Islands for 200 miles between the convention line and Scotch Cap Light (164°44'36"W. longitude). The FMP covers 10 stocks of king and Tanner crab:

1. Eastern Bering Sea snow crab,
2. Bristol Bay red king crab,
3. Eastern Bering Sea Tanner crab,
4. Pribilof Islands red king crab,
5. Pribilof Islands blue king crab,
6. Saint Matthew Island blue king crab,
7. Norton Sound red king crab,
8. Aleutian Islands golden king crab,
9. Pribilof Islands golden king crab, and
10. Western Aleutian Island red king crab.

The Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands (BSAI) was approved by the Secretary of Commerce on June 2, 1989. The king and Tanner crab FMP is a framework plan, allowing for long-term management of the fishery. The FMP establishes a State/Federal cooperative management regime that defers crab management to the State of Alaska with Federal oversight. State regulations are subject to the provisions of the FMP, including its goals and objectives, the Magnuson-Stevens Fishery Conservation and Management Act national standards, and other applicable federal laws. The FMP has been amended many times since its implementation.

ES 1.1 Management Goal and Objectives

The management goal in the FMP is to maximize the overall long-term benefit to the nation through coordinated Federal and State management of BSAI king and Tanner crab stocks, consistent with responsible stewardship for conservation of the crab resources and their habitats. Within the scope of the management goal, the FMP identifies seven management objectives and a number of relevant management measures used to meet these objectives. Several management measures may contribute to more than one objective, and several objectives may align in any given decision on a case-by-case basis.

1. Biological Conservation Objective. Ensure the long-term reproductive viability of king and Tanner crab populations.
2. Economic and Social Objective. Maximize economic and social benefits to the nation over time.
3. Gear Conflict Objective. Minimize gear conflict among fisheries.
4. Habitat Objective. Preserve the quality and extent of suitable habitat.
5. Vessel Safety Objective. Provide public access to the regulatory process for vessel safety considerations.
6. Due Process Objective. Ensure that access to the regulatory process and opportunity for redress are available to interested parties.

7. Research and Management Objective. Provide fisheries research, data collection, and analysis to ensure a sound information base for management decisions.

ES 1.2 FMP Management Measures

The FMP defers much of the management of the BSAI crab fisheries to the State of Alaska using the following three categories of management measures:

1. Those that are fixed in the FMP and require a FMP amendment to change;
2. Those that are framework-type measures that the State can change following criteria set out in the FMP; and
3. Those measures that are neither rigidly specified nor frameworked in the FMP.

The management measures that govern the Bering Sea and Aleutian Island crab fishery are summarized in ES Table 1.

ES Table 1 A summary of management measures in the BSAI King and Tanner Crab Fishery

Types of Measures	Category 1 (Fixed in FMP)	Category 2 (Frameworked in FMP)	Category 3 (Discretion of State)
Management and Registration Areas	FMP area	Districts, Subdistricts, and Sections	
Harvest Levels	Status Determination Criteria Annual Catch Limits Rebuilding Plans	Guideline Harvest Levels and TACs	
Permit and Access	Voluntary cooperative Permit Requirements Limited Access Norton Sound Superexclusive Registration AFA Sideboard Restrictions	Registration Areas Harvest Limitations for AFA Vessels	
Gear	Legal Gear	Pot Limits	Gear Placement and Removal Gear Storage Gear modifications
Retention and Discard		Sex Restrictions Minimum Size Limits	Bycatch Limits (in crab fisheries)
Time and Area Restrictions	Essential Fish Habitat Habitat Areas of Particular Concern	Fishing Seasons Closed Waters In-season Adjustments	
Monitoring and reporting	Federal Observer Requirements		Reporting Requirements Vessel Tank Inspections State Observer Requirements

Category 1 Management Measures

Legal Gear-The FMP specifically prohibits the use of trawls and tanglenet gear for catching king and Tanner crab because of the high mortality rates that could be inflicted on nonlegal crab.

Permit Requirements-The FMP assumes that all crab fishermen are licensed and vessels are licensed and registered under the laws of the State, and as such, while fishing in the EEZ are subject to all State regulations that are consistent with the FMP, Magnuson-Stevens Act, and other applicable law. Hence, no fishing permits are required for harvesting vessels, except as required by the Moratorium and, in the future, the License Limitation Program.

Federal Observer Requirements – Any vessel fishing for or processing king and Tanner crab in the BSAI shall be required to carry an observer if requested so by the NMFS Regional Administrator.

Limited Access – A system of limited access is a type of allocation of fishing privileges that may be used to promote economic efficiency or conservation. Beginning in 1996, a moratorium on vessels entering the BSAI crab fisheries was implemented. This moratorium will be in effect until superseded by implementation of the License Limitation System that was approved by the Secretary in 1997.

Norton Sound Superexclusive Area Registration – The FMP establishes the Norton Sound section of the Norther District king crab fishery as a superexclusive registration area. Any vessel registered and participating in this fishery would not be able to participate in other BSAI king crab fisheries.

Essential Fish Habitat (EFH) – The FMP describes and identifies EFH for BSAI crab and identifies fishing and non-fishing threats to BSAI crab EFH, research needs, and EFH conservation and enhancement recommendations.

Habitat Areas of Particular Concern (HAPC) – The FMP identifies specific HAPCs for the BSAI crab fisheries and establishes management measures to reduce potential adverse effects of fishing on HAPCs.

Category 2 Management Measures

Minimum Size Limits – Under the FMP, the state can adjust size limits within the constraints of available information. Biological considerations are used to establish minimum legal size limits to ensure that conservation needs are served. Preference for larger crabs based upon market and other economic considerations is accommodated by industry rather than through regulation.

Guideline Harvest Levels – The FMP authorizes the state to set preseason GHLS, which limit the total annual harvest of crab. Seasons or areas may be closed when the GHLS is reached, or earlier or later based on current inseason information.

Inseason Adjustments – When an event occurs inseason that affects preseason predictions, or a preseason prediction proves to be incorrect, compensatory inseason adjustments must be made to keep the management system on track toward meeting the biological and economic objectives of the FMP. The FMP authorizes the state to make inseason adjustments to GHLS, to fishing period lengths, and to close areas under state regulations.

District, Subdistrict, and Section Boundaries – The FMP authorizes the state to adjust district, subdistrict, and section boundaries to manage reasonably distinct stock of crab.

Fishing Seasons – Under the FMP, fisheries should be closed during sensitive biological periods to protect crab from mortality caused by handling and stress when shells are soft, and to maximize meat recovery by delaying harvest until the shells have filled out. Fisheries conducted during sensitive biological periods should prevent any irreparable damage to the stocks.

Sex Restrictions – The FMP authorizes an experimental harvest and processing of females when a surplus is determined to be available; otherwise female crabs may not be taken. The surplus would be dependent on the number of crabs above the threshold amount used in the spawning stock calculation of optimum yield. When a surplus of crabs exists, harvest is by state permit if fishermen provide accurate documentation of harvest rates and location, and processing and marketing results are made available to the management agency.

Pot Limits – The FMP authorizes the State to use pot limits to attain the biological conservation objective and the economic and social objective of the FMP. Pot limits must be designed in a nondiscriminatory manner. Pot limits are warranted to restrict deployment of excessive amounts of gear to attain the biological conservation objective in the event of pot loss to advancing ice cover that may result in wastage. Pot limits may also be warranted to restrict excessive amounts of gear to allow a small guideline harvest level from a depressed stock to attain the economic and social objective within biological conservation constraints.

Registration Areas – The FMP adopts existing state registration areas within the BSAI fishery management unit. The management unit is divided by the state into three king crab registration areas – Bering Sea, Bristol Bay, and Aleutian Islands and one Tanner crab registration area – Westward. Registration areas may be further divided into fishing districts, subdistricts, and sections for purposes of management and reporting. State regulations require vessels to register for fishing in these areas, and may require vessels to register for specific districts within a registration area. Registration areas may be designated as either exclusive or nonexclusive. Vessels can register for any one exclusive area but cannot fish in any other exclusive area during the registration year. Vessels can fish any or all nonexclusive areas.

Closed Waters – The FMP recognizes the current state regulations that prohibit commercial fishing for king crab in waters within 10 miles of mean lower low water around St. Lawrence, King, and Little Diomed Islands. The FMP also recognizes the state closure to protect the Norton Sound subsistence king crab fishery. The state may designate new closed water areas or expand or reduce existing state closed water areas in order to meet state subsistence requirements.

Category 3 Management Measures

Reporting Requirements – Reporting requirements for catchers and processors are important component in achieving the biological conservation, economic, social, research, and management objectives of the FMP.

Gear Placement and Removal – Placement of unbaited gear, with doors secured open on the fishing grounds before and after a season, has been allowed within certain limits.

Gear Storage – Crab pots are generally stored on land or in designated storage areas at sea.

Vessel Tank Inspections – Vessel tank (or live-hold) and freezer inspections are required before the opening of a king or Tanner crab fishing season to meet the legal requirements of the states landing laws, provide effort information, and provide for a fair start to the fishery.

Gear Modifications – Pots are the specified legal commercial gear for capturing crab in the BSAI area. An escape mechanism is required on all pots. This mechanism will terminate a pots catching and holding ability in case the pot is lost. Escape areas may be incorporated or mesh size adjusted to allow the escape of nonlegal crabs. Various devices may be added to pots to prevent capture of other species.

Bycatch Limits – The state may implement bycatch limits of crab in crab fisheries managed under the FMP.

State Observer Requirements – The state may place observers aboard crab fishing or processing vessels to obtain catch, effort, and biological data. The state currently has a mandatory observer requirement on all catcher/processors and floating processors participating in the king, Tanner, and snow crab fisheries as a condition of obtaining a processing permit. It is important that the state observer program and any future federal observer program be coordinated.

Other – State government is not limited to only the management measures described in the FMP. Implementation of other management measures not described in the FMP must be consistent with the FMP, the Magnuson-Stevens Act, and other applicable federal laws, and may occur only after consultation with the NPFMC. Other management measures the state may implement are subject to the review and appeals procedures described in the FMP.

ES 1.3 Organization of the FMP

The FMP is organized into six sections. Section 1 contains an introduction to the FMP, and Section 2 describes the policy and management goals and objectives of the FMP. Section 3 contains the conservation and management measures that regulate the BSAI crab fisheries. Section 3 details the

fishery management unit (3.1), the Status determination criteria and rebuilding overfished stocks (3.2) and Management measures. The category 1 federal management measures fixed in the FMP are described in Section 3.3 including the voluntary 3 pie cooperative (3.4). Section 3.5 summarizes the category 2 frameworked management measures, and Section 3.6 details management measures delegated to the State of Alaska. Sections 3.7, 3.8, and 3.9 provide the procedures for FMP implementation, Council and Secretarial participation, and procedures of appeal, respectively.

Section 4 contains a description of the stocks and their habitat, fishing activities, the economic and socioeconomic characteristics of the fisheries and communities, and ecosystem characteristics. Additional descriptive information is also contained in the appendices. Section 5 specifies the relationship of the FMP with applicable law and other fisheries. Section 6 references additional sources of material on the crab fisheries, and includes the bibliography.

Appendices to the FMP include supplemental information. Appendix A contains a summary of amendments to the FMP. Appendix B describes the establishment of the fishery management plan. Appendix C details the community profiles of those communities actively engaged in BSAI crab fisheries. Appendix D includes habitat information by life stage for managed species, maps of essential fish habitat, and a discussion of adverse effects on essential fish habitat. Appendix E provides coordinates for the registration areas described in the FMP. Appendix F details the research needs in the BSAI crab fisheries.

1 Introduction

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, et seq.) (MSA) requires that a fishery management plan (FMP) be prepared for any fishery that requires conservation and management. On December 7, 1984, the North Pacific Fishery Management Council (Council) adopted findings regarding fishery management policy which address the need for Federal management of fisheries off Alaska. The history of fluctuations in the abundance of king and Tanner crabs off Alaska, and the interstate nature of the crab fleet and heavy capitalization in crab fisheries spanning the last several decades, particularly in the Bering Sea, create a situation that demands the Federal management oversight contemplated by the Magnuson-Stevens Act and the findings of the Council, as follows:

1. The fishery resources off Alaska are the property of the United States and should be managed for the benefit of everyone in the U.S. in accordance with the provisions of the Magnuson Act.
2. The common property nature of fishery resources tends to cause overcapitalization in the industry, increases the chances of resource depletion, and decreases the incentive for conservation of the resource by the users.
3. The lack of timely and adequate data has hampered Federal decision-making and management to the detriment of the resource and the economy.

Pursuant to the Magnuson-Stevens Act (MSA), the Council has responsibility for preparing FMPs and amendments to FMPs for the conservation and management of fisheries in the Exclusive Economic Zone (EEZ) off Alaska.

This FMP is written as a cooperative FMP between the Council and the State of Alaska. It contains a general management goal with seven management objectives identified (Section 2.2) and relevant management measures required to meet the objectives that are presented (Section 3). Several management measures may contribute to more than one objective, and several objectives may mesh in any given decision on a case-by-case basis. This FMP attempts to avoid unnecessary duplication of effort. It defers much of the management to the State (Sections 3.5, and 3.6), while the most controversial measures are fixed in the FMP and require a Plan amendment to change (Section 3.3). Federal management oversight to determine if an action is consistent with this FMP, the Magnuson-Stevens Act, and other applicable Federal law is also provided in the form of a review and appeals procedure for both State preseason and in-season actions and through formation of a Council Crab Interim Action Committee (Sections 3.7, 3.8, and 3.9).

1.1 Historical development of the FMP

In January 1977, the Secretary of Commerce (Secretary) adopted and implemented a Preliminary Fishery Management Plan (PMP) for the foreign king and Tanner crab fisheries in the eastern Bering Sea (U.S. Department of Commerce, 1977). Under the PMP, no foreign fishing for king crab was allowed and restrictions were continued on the foreign Tanner crab fishery.

After this initial action, the decision was made to coordinate Federal management of crab fisheries with the State of Alaska (State). This decision was based on a desire to optimize the use of limited State and Federal resources and prevent duplication of effort by making use of the existing State management regime. The State has managed king crab fisheries inside and outside State waters since statehood in 1959. It also managed domestic Tanner crab fisheries since their inception in the Bering Sea in 1968, in the Aleutians in 1973, and jointly managed the Tanner crab fishery in the Bering Sea and Aleutian Islands (BSAI) area and the Gulf of Alaska (GOA) from December 6, 1978, until November 1, 1986, in

accordance with the FMP for the Commercial Tanner Crab Fishery off the Coast of Alaska. The Alaska Board of Fisheries (Board)¹ is currently responsible for regulating and establishing policy for management of the crab fisheries for vessels regulated under the laws of the State. The State's regulatory system provides for extensive public input, ensures necessary annual revisions, is flexible enough to accommodate changes in resource abundance and resource utilization patterns, and is familiar to crab fishermen and processors. The State has made a substantial investment in facilities, communications, information systems, vessels, equipment, experienced personnel capable of carrying out extensive crab management, and research and enforcement programs.

The Tanner crab FMP was approved by the Secretary and published in the Federal Register on May 16, 1978, (43 FR 21170) under the authority of the Magnuson-Stevens Act. Final implementing regulations applicable to vessels of the United States were published on December 6, 1978, (43 FR 57149). Final implementing regulations applicable to vessels of foreign nations were published on December 19, 1978, (43 FR 59075, 43 FR 59292). To achieve its conservation and management objectives and to coordinate management effectively with the State, the FMP adopted many of the management measures employed by the State. In October 1981, the Council and the State adopted a joint statement of principles for the management of domestic king crab fisheries in the BSAI area (Appendix B) This agreement formed the basis for interim management during development of the BSAI king crab FMP. A notice of availability of the FMP was published on July 19, 1984, (49 FR 29250). A final rule was published on November 14, 1984, (49 FR 44998). Although the Federal regulations implementing framework provisions of the FMP were effective December 2, 1984, actual implementation of management measures under the FMP was deferred pending acceptance of the delegation of authority by the Governor of Alaska. In a letter dated June 20, 1986, the Governor declined the delegation of authority. His principal objections to the delegation were: excessive Federal oversight, uncertainties in the regulatory approval process, unnecessary governmental duplication, and concerns for the degree to which discretionary authority of the Board would be constrained.

At its March 1986 meeting, the Council voted to suspend the implementing regulations for the Tanner crab FMP because it did not provide for management based on the best available scientific information, provide for timely coordination of management with the State, or conform to several of the Magnuson-Stevens Act's national standards. Following the March meeting, the Council published management alternatives for public comment. The three major alternatives were: (1) State management with no Federal FMP, (2) an FMP that delegates management to the State; or (3) an FMP with direct Federal management. Three overriding concerns were evident in the public comments reviewed by the Council in September. Any management arrangement must provide efficient and effective management, conservation of the crab stocks, and fair access by all user groups to management's decision-making. The Council, at its September 24-26, 1986 meeting, appointed a workgroup of both industry representatives and Council members to develop a comprehensive management approach for crab fisheries off Alaska that would address these concerns.

On November 1, 1986, the National Oceanic and Atmospheric Administration (NOAA) promulgated an emergency interim rule, at the request of the Council, to repeal the regulations implementing the Tanner crab FMP for a period of 90 days (November 1, 1986, through January 29, 1987, (51 FR 40027).

On November 20, 1986, the Council workgroup met and recommended repeal of the Tanner crab FMP and its implementing regulations. The workgroup recommended that the Council's crab plan team draft a new FMP that includes both king and Tanner crabs, limits its scope to the BSAI area, and defers management to the State to the maximum extent possible.

At its December 1986 meeting, the Council voted to request extension of the emergency interim rule repealing regulations implementing the Tanner crab FMP for a second 90-day period (January 30 through

¹ Hereafter the term "Board" will be used to denote the "Alaska Board of Fisheries" or its successor entities.

April 29, 1987). The Council also accepted the recommendation of the Council workgroup to begin preparation of a new king and Tanner crab FMP that would replace both previous FMPs for the BSAI area, but not address king and Tanner crab fisheries in the Gulf of Alaska for the present time. The Council also determined that the 180-day duration of the emergency interim rule was insufficient to complete a study of management options, prepare a new FMP, and complete the Secretarial review process. The Council, therefore, requested the Secretary to prepare and implement a Secretarial amendment repealing the Tanner crab FMP and its implementing regulations, to allow time for preparation, approval, and implementation of a new FMP for king and Tanner crabs in the BSAI area, and to prevent reinstatement of the Tanner crab FMP implementing regulations which did not conform to the Magnuson-Stevens Act national standards. A final rule was published on May 11, 1987, (52 FR 17577) implementing the Secretarial Amendment repealing the Tanner crab FMP effective April 29, 1987.

This FMP is written as a cooperative FMP in an attempt to avoid problems that were encountered in the previous Tanner and king crab FMPs. The FMP was implemented effective June 1989. In 2003, the Council recommended a major restructuring (rationalization) of the BSAI crab fisheries to allow for a voluntary cooperative program with harvest shares, processor quota shares, and regional landings distribution provisions in order to protect communities. The share-based program was implemented effective April 1, 2005 (70 FR 10174). There have been over 50 amendments to the FMP as of 2023 (Appendix A).

2 Goals and Objectives

2.1 Management Goal

The management goal in the FMP is to maximize the overall long-term benefit to the nation of Bering Sea Aleutian Islands (BSAI) king and Tanner crab stocks by coordinated federal and state management, consistent with responsible stewardship for conservation of the crab resources and their habitats.

2.2 Management Objectives

Within the scope of the management goal, seven specific objectives have been identified. These relate to stock condition, economic and social objectives of the fishery, gear conflicts, habitat, weather and ocean conditions affecting safe access to the fishery, access of all interested parties to the process of revising this FMP and any implementing regulations, and necessary research and management. Each of these objectives requires relevant management measures (see Section 3). Several management measures may contribute to more than one objective, and several objectives may mesh in any given management decision on a case-by-case basis.

1. Biological Conservation Objective. Ensure the long-term reproductive viability of king and Tanner crab populations.
2. Economic and Social Objective. Maximize economic and social benefits to the nation over time.
3. Gear Conflict Objective. Minimize gear conflict among fisheries.
4. Habitat Objective. Preserve the quality and extent of suitable habitat.
5. Vessel Safety Objective. Provide public access to the regulatory process for vessel safety considerations.
6. Due Process Objective. Ensure that access to the regulatory process and opportunity for redress are available to interested parties.
7. Research and Management Objective. Provide fisheries research, data collection, and analysis to ensure a sound information base for management decisions.

2.2.1 Biological Conservation Objective

Ensure the long-term reproductive viability of king and Tanner crab populations.

To ensure the continued reproductive viability of each king and Tanner crab population through protection of reproductive potential, management must prevent overfishing (see acronyms and definitions). Management measures may also be adopted to address other biological concerns such as: restricting harvest of crabs during soft shell periods and maintaining low incidental catch of nonlegal crab. The maintenance of adequate reproductive potential in each crab stock will take precedence over economic and social considerations.

2.2.2 Economic and Social Objective

Maximize economic and social benefits to the nation over time.

Economic benefits are broadly defined to include, but are not limited to: profits, income, employment, benefits to consumers, and less tangible or less quantifiable social benefits such as the economic stability of coastal communities. To ensure that economic and social benefits derived for fisheries covered by this FMP are maximized over time, the following will be examined in the selection of management measures:

1. The value of crab harvested (adjusted for the amount of crab dying prior to processing and discarded, which is known as deadloss) during the season for which management measures are considered,
2. The future value of crab, based on the value of a crab as a member of both the parent and harvestable stock,
3. Subsistence harvests within the registration area, and
4. Economic impacts on coastal communities.

This examination will be accomplished by considering, to the extent that data allow, the impact of management alternatives on the size of the catch during the current and future seasons and their associated prices, harvesting costs, processing costs, employment, the distribution of benefits among members of the harvesting, processing and consumer communities, management costs, and other factors affecting the ability to maximize the economic and social benefits as defined in this section.

Social benefits are tied to economic stability and impacts of commercial fishing associated with coastal communities. While social benefits can be difficult to quantify, economic indices may serve as proxy measures of the social benefits which accrue from commercial fishing. Subsistence harvests must also be considered to ensure that subsistence requirements are met as required by law. State law requires that a reasonable opportunity be provided for subsistence use before other consumptive use is allowed. It is very difficult to evaluate the economic impact of subsistence fishing. Yet, fish, shellfish, and game harvested by subsistence users to provide food for the family or social group can greatly exceed the economic value of the product itself (Wise et. al., 2022). Some coastal communities in the BSAI region are even more heavily dependent on commercial fish harvesting and/or processing. Appendix C details the community profiles for those communities heavily engaged in the BSAI crab fisheries, including catcher/processor and subsistence dependence.

2.2.3 Gear Conflict Objective

Minimize gear conflict among fisheries.

Management measures developed for the king and Tanner crab fisheries will take into account the interaction of those fisheries, and the people engaged in them, with other fisheries. To minimize gear conflict among fisheries, the compatibility of different types of fishing gear and activities on the same fishing grounds should be considered. King and Tanner crab fisheries are conducted with pots, which are stationary gear. Many other fisheries in the fishery management unit, both domestic and foreign, are

conducted with mobile trawl or seine gear. Seasons, gear storage, and fishing areas may be arranged to eliminate, insofar as possible, conflicts between gear types and preemption of fishing grounds by one form of gear over another.

2.2.4 Habitat Objective:

To protect, conserve, and enhance adequate quantities of essential fish habitat (EFH) to support king and Tanner crab populations and maintain a healthy ecosystem.

Habitat is defined as the physical, chemical, geological, and biological surroundings that support healthy, self-sustaining populations of living marine resources. Habitat includes both the physical component of the environment which attracts living marine resources (e.g. salt marshes, sea grass beds, coral reefs, intertidal lagoons, and near shore characteristics) and the chemical (e.g. salinity, benthic community) and biological characteristics (e.g. scallop life stage histories, oceanography) that are necessary to support living marine resources. The quality and availability of habitat supporting the king and Tanner crab populations are important. Fishery managers should strive to ensure that those waters and substrate necessary to king and Tanner crabs for spawning, breeding, feeding, or growth to maturity are available. It is also important to consider the potential impact of king and Tanner crab fisheries on other fish and shellfish populations. King and Tanner crab EFH is described in Appendix D of this FMP.

Those involved in both management and exploitation of king and Tanner crab resources will actively review actions by other human users of the management area to ensure that their actions do not cause deterioration of habitat. Any action by a State or Federal agency potentially affecting king and Tanner crab habitat in an adverse manner may be reviewed by the Council for possible action under the Magnuson-Stevens Act. The Council will also consider the effect on king and Tanner crab habitat of its own management decisions in other fisheries.

2.2.5 Vessel Safety Objective

Provide public access to the regulatory process for vessel safety considerations.

Upon request, and when appropriate, the Council and the State shall consider, and may provide for, temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of vessels.

2.2.6 Due Process Objective

Ensure that access to the regulatory process and opportunity for redress are available to all interested parties.

In order to attain the maximum benefit to the nation, the interrelated biological, economic and social, habitat, and vessel safety objectives outlined above must be balanced against one another. A continuing dialogue between fishery managers, fishery scientists, fishermen, processors, consumers, and other interested parties is necessary to keep this balance. Insofar as is practical, management meetings will be scheduled around fishing seasons and in places where they can be attended by fishermen, processors, or other interested parties.

Access to the FMP development and regulatory process is available through membership in a Council work group, testimony on the record before the Council's Advisory Panel or SSC, or before the Council itself, testimony before the Board, conversations with members of the plan team or officials of regulatory agencies, and by commenting on the FMP, any subsequent amendments and any regulations proposed for their implementation.

This FMP defers much of day-to-day crab management to the State. Means of access to the regulatory process at the State level and of redress of perceived wrongs by the State are necessary. Section 5.2 describes the State management system and mechanisms for public input. Sections 3.8 and 3.9 of this

FMP contain procedures for challenge of State laws or regulations regarding management of these fisheries alleged to be inconsistent with the Magnuson-Stevens Act, the FMP, or any other applicable Federal law.

2.2.7 Research and Management Objective

Provide fisheries research, data collection, and analysis to ensure a sound information base for management decisions.

Necessary data must be collected and analyzed in order to measure progress relative to other objectives and to ensure that management actions are adjusted to reflect new knowledge. Achieving the objective will require new and ongoing research and analysis relative to stock conditions, dynamic feedback to market conditions, and adaptive management strategies. For example, some possible research topics could include (1) the basis for exclusive registration areas, (2) the basis for sex restrictions in retained catch, (3) the basis for size limits, (4) the process for determining GHLS, (5) bioeconomic analyses of specific regulatory proposals, and (6) defining oceanographic conditions important to maximizing productivity of crab stocks.

An annual area management report to the Board discussing current biological and economic status of the fisheries, GHL ranges, and support for different management decisions or changes in harvest strategies will be prepared by the State (ADF&G lead agency), with NMFS and crab plan team input when appropriate. This will be available for public comment, and presented to the Council on an annual basis. TACs will be revised when new information is available. Such information will be made available to the public.

3 Conservation and Fishery Management Measures

The BSAI King and Tanner Crab FMP authorizes the commercial harvest of crab species listed in Section 3.1 of this FMP. Section 3.2 describes the procedures for determining harvest levels for crab species. The FMP defers much of the management of the BSAI crab fisheries to the State of Alaska using the following three categories of management measures:

1. Those that are fixed in the FMP and require a FMP amendment to change; (Category 1; Section 3.3 and Section 3.4 for the Voluntary Cooperative Program)
2. Those that are framework-type measures that the state can change following criteria set out in the FMP; and (Category 2; Section 3.5)
3. Those measures that are neither rigidly specified nor frameworked in the FMP. (Category 3; Section 3.6)

Table 3-1 provides a summary of the management measures in each category.

Table 3-1 Management measures in the FMP, by category

Types of Measures	Category 1 (Fixed in FMP)	Category 2 (Frameworked in FMP)	Category 3 (Discretion of State)
Management and Registration Areas	FMP area	Districts, Subdistricts, and Sections	
Harvest Levels	Status Determination Criteria Annual Catch Limits Rebuilding Plans	Guideline Harvest Levels and TACs	
Permit and Access	Voluntary cooperative Permit Requirements Limited Access Norton Sound Superexclusive Registration AFA Sideboard Restrictions	Registration Areas Harvest Limitations for AFA Vessels	
Gear	Legal Gear	Pot Limits	Gear Placement and Removal Gear Storage Gear modifications
Retention and Discard		Sex Restrictions Minimum Size Limits	Bycatch Limits (in crab fisheries)
Time and Area Restrictions	Essential Fish Habitat Habitat Areas of Particular Concern	Fishing Seasons Closed Waters In-season Adjustments	
Monitoring and reporting	Federal Observer Requirements		Reporting Requirements Vessel Tank Inspections State Observer Requirements

Management measures in category 1 may be addressed through submission of a proposal to the North Pacific Fishery Management Council (NPFMC; Section 3.7). The measures in Categories two and three above may be adopted as State laws subject to the appeals process outlined in the FMP (see Sections 3.8 and 3.9).

The description of management measures in this chapter is not intended to limit the State government to only these measures. However, implementation of other management measures not described in the FMP must be consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law, and may occur only after consultation with the Council. Although specific strategies for attainment of objectives in the FMP are not described, management measures described in this section are all derived to attain one or more of those objectives. Any subsequent management measures must also be justified based upon consistency with the objectives in this FMP. All management measures must, further, be consistent with the Magnuson-Stevens Act and other applicable Federal law.

Sections 3.7, 3.8, and 3.9 define the procedures for FMP implementation, procedures for Council/Secretary of commerce participation and procedures for appeals, respectively.

3.1 Description of the Fishery Management Unit

3.1.1 Stocks

The BSAI King and Tanner crab FMP applies to commercial fisheries for red king crab *Paralithodes camtschaticus*, blue king crab *P. platypus*, golden (or brown) king crab *Lithodes aequispinus*, Tanner crab *Chionoecetes bairdi*, and snow crab *C. opilio* in the BSAI area, except for the following stocks exclusively managed by the State of Alaska: Aleutian Islands Tanner crab, Dutch Harbor red king crab, St. Matthew golden king crab, and St. Lawrence blue king crab.

The common and scientific names used in this FMP are those included in Williams et al. (1988), appropriately amended, with secondary common names sometimes used in the fishery included in parentheses. Members of the genus *Chionoecetes* are often collectively referred to as Tanner crabs; to avoid confusion, the name Tanner crab is used for *C. bairdi* and snow crab is used for *C. opilio*. Through 1989, commercial landings had only been reported for red, blue, and golden king crab; and Tanner, snow, and hybrids of these two species.

3.1.2 Management Area

The BSAI area for this FMP is defined as those waters of the EEZ lying south of the Chukchi Sea statistical area as described in 50 CFR part 679, east of the 1990 U.S./Russian maritime boundary line, and extending south of the Aleutian Islands for 200 miles between the convention line and Scotch Cap Light (164°44'36"W. longitude) (Figure 3-1). The 1988 agreement between the two parties shifted the boundary westward from the convention line of 1867. The U.S. ratified the agreement in 1990, but the Russian Federation had yet to do so as of December 2023. Nevertheless, the Russian Federation is provisionally applying the maritime boundary agreement and the U.S. position is that the maritime boundary is in force.

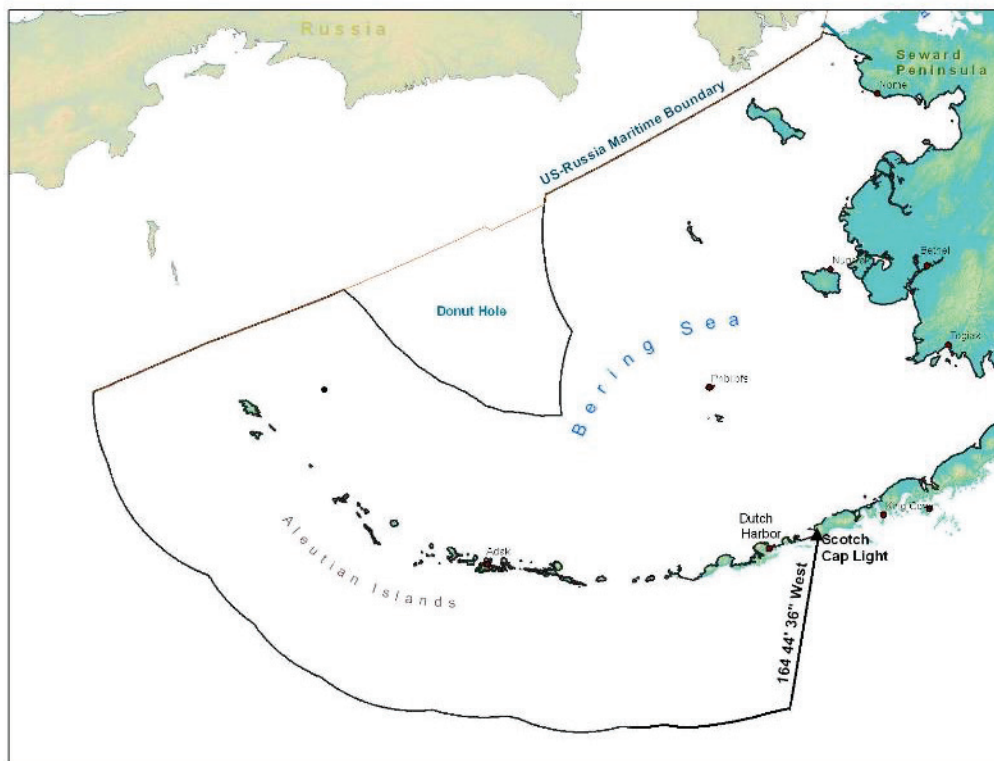


Figure 3-1 BSAI Crab FMP Management Area

The BSAI area contains several stocks of king and Tanner crabs (Section 4) that are discrete from stocks in the Gulf of Alaska. In addition, the physical environment of this area possesses attributes distinguishable from crab grounds in the Gulf of Alaska. Stocks of king and Tanner crabs in the Gulf of Alaska are not included in this management unit and will be managed by the State until the Council prepares an FMP for those stocks.

The Council considered the following in determining the boundaries for the management unit:

1. Crab fisheries outside and inside the BSAI management unit are clearly different in a number of important respects. First, historically the Gulf of Alaska fisheries rely largely on single species while the BSAI fisheries are concerned with multiple species (i.e. mainly red king crab in the

Gulf of Alaska vs. red, blue, and golden king crabs in the BSAI area, and *C. bairdi* in the Gulf of Alaska vs. *C. opilio* and *C. bairdi* in the BSAI area). Second, there is a difference in composition of resident and nonresident fishermen between the two areas (the Gulf of Alaska fisheries have been conducted mostly by Alaska residents and the BSAI fisheries mostly by residents of Washington and Oregon). Third, the composition and mix of vessel size classes is different in the two areas; the BSAI area is traditionally fished by larger vessels. Fourth, a greater proportion of the king and Tanner crab fisheries in the Gulf of Alaska occur within State waters than do the king and Tanner crab fisheries in the Bering Sea.

2. The coordination of king and Tanner crab management in the BSAI area with the BSAI groundfish FMP was another consideration. This is especially important with respect to incidental catch issues.

3.2 Status Determination Criteria, ACL and Rebuilding

Status determination criteria for crab stocks are annually calculated using a five-tier system that accommodates varying levels of uncertainty of information. The five-tier system incorporates new scientific information and provides a mechanism to continually improve the status determination criteria as new information becomes available. Under the five-tier system, overfishing and overfished criteria and acceptable biological catch (ABC) levels are annually formulated. The annual catch limit (ACL) for each stock equals the ABC for that stock. Each crab stock is annually assessed to determine its status and whether (1) overfishing is occurring or the rate or level of fishing mortality for the stock is approaching overfishing, (2) the stock is overfished or the stock is approaching an overfished condition, and (3) the catch has exceeded the ACL.

For crab stocks, the overfishing level (OFL) equals maximum sustainable yield (MSY) and is derived through the annual assessment process, under the framework of the tier system. Overfishing is determined by comparing the OFL, with the catch estimates for that crab fishing year. For the previous crab fishing year, NMFS will determine whether overfishing occurred by comparing the previous year's OFL with the catch from the previous crab fishing year. For the previous crab fishing year, NMFS will also determine whether the ACL was exceeded by comparing the ACL with the catch estimates for that crab fishing year. Catch includes all fishery removals, including retained catch and discard losses, for those stocks where non-target fishery removal data are available. Discard losses are determined by multiplying the appropriate handling mortality rate by observer estimates of bycatch discards. For stocks where only retained catch information is available, the OFL and ACL will be set for and compared to the retained catch.

NMFS will determine whether a stock is in an overfished condition by comparing annual biomass estimates to the established MSST, defined as $\frac{1}{2} B_{MSY}$. For stocks where MSST (or proxies) are defined, if the biomass drops below the MSST (or proxy thereof) then the stock is considered to be overfished. MSSTs or proxies are set for stocks in Tiers 1-4. For Tier 5 stocks, it is not possible to set an MSST because there are no reliable estimates of biomass.

If overfishing occurred or the stock is overfished, section 304(e)(3)(A) of the Magnuson-Stevens Act, as amended, requires the Council to immediately end overfishing and rebuild affected stocks.

The Magnuson-Stevens Act requires that FMPs include accountability measures to prevent ACLs from being exceeded and to correct overages of the ACL if they do occur. Accountability measures to prevent TACs and GHs from being exceeded have been used under this FMP for the management of the BSAI crab fisheries and will continue to be used to prevent ACLs from being exceeded. These include: individual fishing quotas and the measures to ensure that individual fishing quotas are not exceeded, measures to minimize crab bycatch in directed crab fisheries, and monitoring and catch accounting

measures. Accountability measures in the harvest specification process include downward adjustments to the ACL and TAC in the fishing year after an ACL has been exceeded.

Annually, the Council, Scientific and Statistical Committee, and Crab Plan Team will review (1) the stock assessment documents, (2) the OFLs and ABCs, and total allowable catches or guideline harvest levels, (3) NMFS's determination of whether overfishing occurred in the previous crab fishing year, (4) NMFS's determination of whether any stocks are overfished and (5) NMFS's determination of whether catch exceeded the ACL in the previous crab fishing year.

Optimum yield is defined in acronyms and definitions. Information pertaining to economic, social and ecological factors relevant to the determination of optimum yield is provided in several sections of this FMP, including Sections 2.2 (Management Objectives), 3.4 (Crab Rationalization), Appendix C (Community profiles), and Appendix D (Essential Fish Habitat).

For each crab fishery, the optimum yield range is 0 to < OFL catch. For crab stocks, the OFL is the annualized maximum sustainable yield (MSY) and is derived through the annual assessment process, under the framework of the tier system. Recognizing the relatively volatile reproductive potential of crab stocks, the cooperative management structure of the FMP, and the past practice of restricting or even prohibiting directed harvests of some stocks out of ecological considerations, this optimum yield range is intended to facilitate the achievement of the biological objectives and economic and social objectives of this FMP (see Sections 2.1 and 2.2) under a variety of future biological and ecological conditions. It enables the State to determine the appropriate TAC levels below the OFL to prevent overfishing or address other biological concerns that may affect the reproductive potential of a stock but that are not reflected in the OFL itself. Under Section 3.5.2, the State establishes TACs at levels that maximize harvests, and associated economic and social benefits, when biological and ecological conditions warrant doing so.

3.2.1 Five-Tier System

The OFL and ABC for each stock are annually estimated for the upcoming crab fishing year using the five-tier system, detailed in Table 3-2 and Table 3-3. First, a stock is assigned to one of the five tiers based on the availability of information for that stock and model parameter choices are made. Tier assignments and model parameter choices are recommended through the Crab Plan Team process to the Council's Scientific and Statistical Committee. The Council's Scientific and Statistical Committee recommends tier assignments, stock assessment and model structure, and parameter choices, including whether information is "reliable," for the assessment authors to use for calculating the proposed OFLs and ABCs based on the five-tier system.

For Tiers 1 through 4, once a stock is assigned to a tier, the determination of stock status level is based on recent survey data and assessment models, as available. The stock status level determines the equation used in calculating the F_{OFL} . Three levels of stock status are specified and denoted by "a," "b," and "c" (see Table 3-2). The F_{MSY} control rule reduces the F_{OFL} as biomass declines by stock status level. At stock status level "a," current stock biomass exceeds the B_{MSY} . For stocks in status level "b," current biomass is less than B_{MSY} but greater than a level specified as the "critical biomass threshold" (β).

In stock status level "c," the ratio of current biomass to B_{MSY} (or a proxy for B_{MSY}) is below β . At stock status level "c," directed fishing is prohibited and an F_{OFL} at or below F_{MSY} would be determined for all other sources of fishing mortality in the development of the rebuilding plan. The Council will develop a rebuilding plan once a stock level falls below the MSST.

For Tiers 1 through 3, the coefficient α is set at a default value of 0.1, and β set at a default value of 0.25, with the understanding that the Scientific and Statistical Committee may recommend different values for a specific stock or stock complex as merited by the best available scientific information.

In Tier 4, a default value of natural mortality rate (M) or an M proxy, and a scalar, γ , are used in the calculation of the F_{OFL} .

In Tier 5, the OFL is specified in terms of an average catch value over an historical time period, unless the Scientific and Statistical Committee recommends an alternative value based on the best available scientific information.

First, the assessment author prepares the stock assessment and calculates the proposed OFLs by applying the F_{OFL} and using the most recent abundance estimates. The assessment authors calculate the proposed ABCs by applying the ABC control rule to the proposed OFL.

Stock assessment documents shall:

- use risk-neutral assumptions;
- specify how the probability distribution of the OFL used in the ABC control rule is calculated for each stock; and
- specify the factors influencing scientific uncertainty that are accounted for in calculation of the probability distribution of the OFL.

Second, the Crab Plan Team annually reviews stock assessment documents, the most recent abundance estimates, the proposed OFLs and ABCs, and compiles the Stock Assessment and Fishery Evaluation Report. The Crab Plan Team then makes recommendations to the Scientific and Statistical Committee on the OFLs, ABCs, and any other issues related to the crab stocks.

Third, the Scientific and Statistical Committee annually reviews the Stock Assessment and Fishery Evaluation Report, including the stock assessment documents, recommendations from the Crab Plan Team, and the methods to address scientific uncertainty.

In reviewing the Stock Assessment and Fishery Evaluation Report, the Crab Plan Team and the Scientific and Statistical Committee shall evaluate and make recommendations, as necessary, on:

- the assumptions made for stock assessment models and estimation of OFLs;
- the specifications of the probability distribution of the OFL;
- the methods to appropriately quantify uncertainty in the ABC control rule; and
- the factors influencing scientific uncertainty that the State has accounted for and will account for on an annual basis in TAC setting.

The Scientific and Statistical Committee will then set the final OFLs and ABCs for the upcoming crab fishing year. The Scientific and Statistical Committee may set an ABC lower than the result of the ABC control rule, but it must provide an explanation for setting the ABC less than the maximum ABC.

As an accountability measure, the total catch estimate used in the stock assessment will include any amount of harvest that may have exceeded the ACL in the previous fishing season. For stocks managed under Tiers 1 through 4, this would result in a lower maximum ABC in the subsequent year, all else being equal, because maximum ABC varies directly with biomass. For Tier 5 stocks, the information used to establish the ABC is insufficient to reliably estimate abundance or discern the existence or extent of biological consequences caused by an overage in the preceding year. Consequently, the subsequent year's maximum ABC will not automatically decrease. However, when the ACL for a Tier 5 stock has been exceeded, the Scientific and Statistical Committee may decrease the ABC for the subsequent fishing season as an accountability measure.

Tiers 1 through 3

For Tiers 1 through 3, reliable estimates of B , B_{MSY} , and F_{MSY} , or their respective proxy values, are available. Tiers 1 and 2 are for stocks with a reliable estimate of the spawner/recruit relationship, thereby enabling the estimation of the limit reference points B_{MSY} and F_{MSY} .

- Tier 1 is for stocks with assessment models in which the probability density function (pdf) of F_{MSY} is estimated.
- Tier 2 is for stocks with assessment models in which a reliable point estimate, but not the pdf, of F_{MSY} is made.
- Tier 3 is for stocks where reliable estimates of the spawner/recruit relationship are not available, but proxies for F_{MSY} and B_{MSY} can be estimated.

For Tier 3 stocks, maturity and other essential life-history information are available to estimate proxy limit reference points. For Tier 3, a designation of the form “ F_x ” refers to the fishing mortality rate associated with an equilibrium level of fertilized egg production (or its proxy such as mature male biomass at mating) per recruit equal to $X\%$ of the equilibrium level in the absence of any fishing.

The OFL and ABC calculation accounts for all losses to the stock not attributable to natural mortality. The OFL and ACL are total catch limits comprised of three catch components: (1) non-directed fishery discard losses; (2) directed fishery discard losses; and (3) directed fishery retained catch. To determine the discard losses, the handling mortality rate is multiplied by bycatch discards in each fishery. Overfishing would occur if, in any year, the sum of all three catch components exceeds the OFL.

Tier 4

Tier 4 is for stocks where essential life-history, recruitment information, and understanding are insufficient to achieve Tier 3. Therefore, it is not possible to estimate the spawner-recruit relationship. However, there is sufficient information for simulation modeling that captures the essential population dynamics of the stock as well as the performance of the fisheries. The simulation modeling approach employed in the derivation of the annual OFLs captures the historical performance of the fisheries as seen in observer data from the early 1990s to present and thus borrows information from other stocks as necessary to estimate biological parameters such as γ .

In Tier 4, a default value of natural mortality rate (M) or an M proxy, and a scalar, γ , are used in the calculation of the F_{OFL} . Explicit to Tier 4 are reliable estimates of current survey biomass and the instantaneous M . The proxy B_{MSY} is the average biomass over a specified time period, with the understanding that the Council’s Scientific and Statistical Committee may recommend a different value for a specific stock or stock complex as merited by the best available scientific information. A scalar, γ , is multiplied by M to estimate the F_{OFL} for stocks at status levels a and b, and γ is allowed to be less than or greater than unity. Use of the scalar γ is intended to allow adjustments in the overfishing definitions to account for differences in biomass measures. A default value of γ is set at 1.0, with the understanding that the Council’s Scientific and Statistical Committee may recommend a different value for a specific stock or stock complex as merited by the best available scientific information.

If the information necessary to determine total catch OFLs and ACLs is available for a Tier 4 stock, then the OFL and ACL will be total catch limits comprised of three catch components: (1) non-directed fishery discard losses; (2) directed fishery discard losses; and (3) directed fishery retained catch. If the information necessary to determine total catch OFLs and ACLs is not available for a Tier 4 stock, then the OFL and ACL are determined for retained catch. In the future, as information improves, data would be available for some stocks to allow the formulation and use of selectivity curves for the discard fisheries (directed and non-directed losses) as well as the directed fishery (retained catch) in the models. The resulting OFL and ACL from this approach, therefore, would be the total catch OFL and ACL.

Tier 5

Tier 5 stocks have no reliable estimates of biomass and only historical catch data is available. For Tier 5 stocks, the OFL is set equal to the average catch from a time period determined to be representative of the production potential of the stock, unless the Scientific and Statistical Committee recommends an alternative value based on the best available scientific information. The ABC control rule sets the maximum ABC at less than or equal to 90 percent of the OFL and the ACL equals the ABC.

For Tier 5 stocks where only retained catch information is available, the OFL and ACL will be set for the retained catch portion only, with the corresponding limits applying to the retained catch only. For Tier 5 stocks where information on bycatch mortality is available, the OFL and ACL calculations could include discard losses, at which point the OFL and ACL would be applied to the retained catch plus the discard losses from directed and non-directed fisheries.

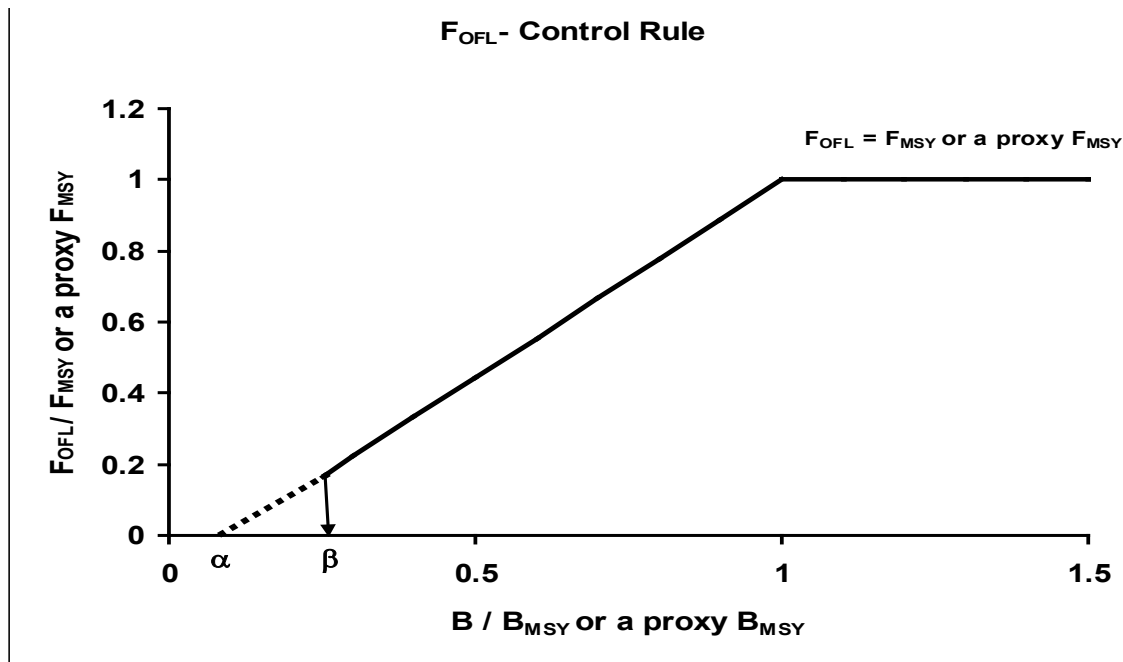


Figure 3-2 Overfishing control rule for Tiers 1 through 4. Directed fishing mortality is 0 below β .

Table 3-2 Five-Tier System for setting overfishing limits (OFLs) and Acceptable Biological Catches (ABCs) for crab stocks. The tiers are listed in descending order of information availability. Table 3-3 A guide for understanding the five-tier system. contains a guide for understanding the five-tier system.

Information available	Tier	Stock status level	F_{OFL}	ABC control rule
B, B_{MSY}, F_{MSY} , and pdf of F_{MSY}	1	a. $\frac{B}{B_{msy}} > 1$	$F_{OFL} = \mu_A$ = arithmetic mean of the pdf	ABC \leq (1-b _y) * OFL
		b. $\beta < \frac{B}{B_{msy}} \leq 1$	$F_{OFL} = \mu_A \frac{B/B_{msy} - \alpha}{1 - \alpha}$	
		c. $\frac{B}{B_{msy}} \leq \beta$	Directed fishery $F = 0$ $F_{OFL} \leq F_{MSY}^\dagger$	
B, B_{MSY}, F_{MSY}	2	a. $\frac{B}{B_{msy}} > 1$	$F_{OFL} = F_{msy}$	ABC \leq (1-b _y) * OFL
		b. $\beta < \frac{B}{B_{msy}} \leq 1$	$F_{OFL} = F_{msy} \frac{B/B_{msy} - \alpha}{1 - \alpha}$	
		c. $\frac{B}{B_{msy}} \leq \beta$	Directed fishery $F = 0$ $F_{OFL} \leq F_{MSY}^\dagger$	
$B, F_{35\%}, B_{35\%}$ *	3	a. $\frac{B}{B_{35\%}} > 1$	$F_{OFL} = F_{35\%}$ *	ABC \leq (1-b _y) * OFL
		b. $\beta < \frac{B}{B_{35\%}} \leq 1$	$F_{OFL} = F_{35\%} \frac{B/B_{35\%} - \alpha}{1 - \alpha}$	
		c. $\frac{B}{B_{35\%}} \leq \beta$	Directed fishery $F = 0$ $F_{OFL} \leq F_{MSY}^\dagger$	
B, M, B_{msy}^{prox}	4	a. $\frac{B}{B_{msy}^{prox}} > 1$	$F_{OFL} = \gamma M$	ABC \leq (1-b _y) * OFL
		b. $\beta < \frac{B}{B_{msy}^{prox}} \leq 1$	$F_{OFL} = \gamma M \frac{B/B_{msy}^{prox} - \alpha}{1 - \alpha}$	
		c. $\frac{B}{B_{msy}^{prox}} \leq \beta$	Directed fishery $F = 0$ $F_{OFL} \leq F_{MSY}^\dagger$	
Stocks with no reliable estimates of biomass or M.	5		OFL = average catch from a time period to be determined, unless the SSC recommends an alternative value based on the best available scientific information.	ABC \leq 0.90 * OFL

*35% is the default value unless the SSC recommends a different value based on the best available scientific information.

† An $F_{OFL} \leq F_{MSY}$ will be determined in the development of the rebuilding plan for an overfished stock.

Table 3-3 A guide for understanding the five-tier system.

<ul style="list-style-type: none"> • F_{OFL} — the instantaneous fishing mortality (F) from the directed fishery that is used in the calculation of the overfishing limit (OFL). F_{OFL} is determined as a function of: <ul style="list-style-type: none"> ○ F_{MSY} — the instantaneous F that will produce MSY at the MSY-producing biomass <ul style="list-style-type: none"> ▪ A proxy of F_{MSY} may be used; e.g., $F_{x\%}$, the instantaneous F that results in x% of the equilibrium spawning per recruit relative to the unfished value ○ B — a measure of the productive capacity of the stock, such as spawning biomass or fertilized egg production. <ul style="list-style-type: none"> ▪ A proxy of B may be used; e.g., mature male biomass ○ B_{MSY} — the value of B at the MSY-producing level <ul style="list-style-type: none"> ▪ A proxy of B_{MSY} may be used; e.g., mature male biomass at the MSY-producing level ○ β — a parameter with restriction that $0 \leq \beta < 1$. ○ α — a parameter with restriction that $0 \leq \alpha \leq \beta$. • The maximum value of F_{OFL} is F_{MSY}. $F_{OFL} = F_{MSY}$ when $B > B_{MSY}$. • F_{OFL} decreases linearly from F_{MSY} to $F_{MSY} \cdot (\beta - \alpha) / (1 - \alpha)$ as B decreases from B_{MSY} to $\beta \cdot B_{MSY}$ • When $B \leq \beta \cdot B_{MSY}$, $F = 0$ for the directed fishery and $F_{OFL} \leq F_{MSY}$ for the non-directed fisheries, which will be determined in the development of the rebuilding plan. • The parameter, β, determines the threshold level of B at or below which directed fishing is prohibited. • The parameter, α, determines the value of F_{OFL} when B decreases to $\beta \cdot B_{MSY}$ and the rate at which F_{OFL} decreases with decreasing values of B when $\beta \cdot B_{MSY} < B \leq B_{MSY}$. <ul style="list-style-type: none"> ○ Larger values of α result in a smaller value of F_{OFL} when B decreases to $\beta \cdot B_{MSY}$. ○ Larger values of α result in F_{OFL} decreasing at a higher rate with decreasing values of B when $\beta \cdot B_{MSY} < B \leq B_{MSY}$. • The parameter, b_y, is the value for the annual buffer calculated from a P^* of 0.49 and a probability distribution for the OFL that accounts for scientific uncertainty in the estimate of OFL. • P^* is the probability that the estimate of ABC, which is calculated from the estimate of OFL, exceeds the “true” OFL (noted as OFL') ($P(ABC > OFL')$).
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3.2.2 Rebuilding Overfished Fisheries

1. Pribilof Islands blue king crab (*Paralithodes platypus*)

NMFS declared Pribilof Islands blue king crab overfished on September 23, 2002, because the spawning biomass estimated from the NMFS trawl survey was below the minimum stock size threshold. The Council developed a rebuilding plan for the Pribilof Islands blue king crab stock to satisfy the requirements of section 304(e)(4)(A) of the Magnuson-Stevens Act and comply with the national standard guidelines at 50 CFR 600.310(e). In 2009, NMFS reviewed this rebuilding plan and notified that Council that this stock had not made adequate progress toward rebuilding. The Council analyzed the best available information on Pribilof Island blue king crabs and fishery mortality and recommended additional conservations and management measures to rebuild the stock and prevent overfishing in accordance with section 304(e)(7) of the Magnuson-Stevens Act.

With the implementation of Amendment 103 to the BSAI FMP, all fishery management measures practicable have been taken to greatly eliminate Pribilof Island blue king crabs catch and protect Pribilof Island blue king crabs habitat. These measures are intended to promote adequate progress toward rebuilding.

Based on the best available information on the biology of the stock and environmental conditions, NMFS estimates that the time period to rebuild the stock will exceed 10 years, as allowed under section 304(e)(4)(A)(ii) of the Magnuson-Stevens Act. The causes of the Pribilof Islands blue king crab stock decline are thought to be predominantly due to environmental changes that inhibit blue king crab reproduction. For this stock to rebuild, the stock would likely require multiple years of above average recruitment and/or a change in environmental conditions to increase larval productivity around the Pribilof Islands. It is not possible to predict future recruitment success, however, changes in stock abundance are assessed in the annual Stock Assessment and Fishery Evaluation Report for the BSAI king and Tanner crab fisheries.

This is a framework rebuilding plan because the FMP defers to the State the authority to develop harvest strategies, with oversight by NMFS and the Council (see Section 3). The rebuilding plan utilizes the harvest strategy developed by ADF&G and adopted by the Alaska Board of Fisheries. The rebuilding harvest strategy closes the fishery until the stock is rebuilt. The stock will be considered “rebuilt” when the stock reaches B_{MSY} in two consecutive years. This harvest strategy should result in more spawning biomass as more larger male crab would be conserved and fewer juveniles and females would die due to incidental catch and discard mortality. This higher spawning biomass would be expected to produce good year-classes when environmental conditions are favorable.

Under this rebuilding plan, changes to the harvest strategy must: (1) comply with the existing criteria in the FMP and the national standard guidelines at 50 CFR 600.310(e), (2) be sufficient to rebuild the stock to the B_{MSY} level within a rebuilding time period that satisfies the requirements of section 304(e)(4)(A) of the Magnuson-Stevens Act, and (3) be consistent with applicable Federal law.

Habitat is thoroughly protected from fishing impacts by the existing Pribilof Islands Habitat Conservation Zone, which encompasses the majority of blue king crab habitat. The Pribilof Islands Habitat Conservation Zone was established to protect a majority of the crab habitat in the Pribilof Islands area based on the distribution and habitat of the blue king crab in the NMFS annual trawl surveys and on observer data.

Bycatch of blue king crab in both crab and groundfish fisheries is a negligible proportion of the total population abundance. On an annual basis, ADF&G also closes specific State statistical areas where Pribilof Island blue king crabs are known to occur during the Bristol Bay red king crab, snow crab, and Tanner crab fisheries to minimize blue king crab bycatch in those fisheries. NMFS has closed the Pribilof Islands Habitat Conservation Zone to trawl gear and to directed fishing for Pacific cod with pot gear. These measures greatly eliminate bycatch of Pribilof Island blue king crab and prevent overfishing.

NMFS has mechanisms in place for monitoring the effectiveness of the rebuilding plan. The NMFS eastern Bering Sea bottom-trawl survey provides an annual assessment of the status of the Pribilof Islands blue king crab stock. The surveys will allow the BSAI Crab Plan Team to include an assessment of the Pribilof Islands blue king crab stock status relative to the overfishing level and its progress towards the rebuilt level in the annual Stock Assessment and Fishery Evaluation Report for the BSAI king and Tanner crab fisheries.

2. St. Matthew blue king (*Paralithodes platypus*) crab

The SMBKC stock was declared overfished on October 22, 2018, because the estimated spawning biomass was below the minimum stock size threshold specified in the crab FMP. In order to comply with the MSA, a rebuilding plan was developed by the Council to be implemented prior to the start of the 2020/2021 fishing season, as required by the MSA in section 304(e). The rebuilding plan is consistent with the MSA and with NS1 Guidelines on time for rebuilding, specifically rebuilding within a time (T_{target}) that is as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish with the marine ecosystems.

A projected time for rebuilding, taking into account the biology of the species and current environmental conditions, is 25.5 years. Through this FMP, the State of Alaska is delegated management of the SMBKC fishery the State sets preseason TACs and GHs, and season or area closures when the TAC or GH is reached. The State of Alaska's SMBKC harvest strategy is provided in the Alaska Administrative Code at 5 AAC 34.917 and that strategy applies during rebuilding. The State harvest strategy is more conservative than the FMP's control rule parameters for SMBKC because, under the harvest strategy, directed fishing is prohibited at or below a larger biomass level than under the F_{OFL} control rule. Throughout the rebuilding plan for SMBKC, several sources of information would be maintained to facilitate the determination of adequate progress.

The NMFS eastern Bering Sea bottom-trawl survey provides data for annual assessment of the status of crab stocks in the BSAI, including SMBKC, and would continue throughout rebuilding. The BSAI Crab Plan Team would report stock status and progress towards the rebuilt level in the Stock Assessment and Fishery Evaluation (SAFE) Report for the king and Tanner crab fisheries of the BSAI. Additionally, ADF&G and NMFS monitor directed fishery catch and bycatch of blue king crabs in other fisheries. ADF&G requires full observer coverage (100%) for both catcher vessels and catcher processors participating in the fishery. Observers monitor harvest at sea and landings by catcher vessels shoreside processors. ADF&G reports the total harvest from the commercial fishery and that report will be included annually in the SAFE. The contribution of the rebuilding plan to stock recovery would be additive to measures already in place that limit the effects of fishing activity on SMBKC. Measures are in place to protect habitat and reduce bycatch potential through prohibitions on nonpelagic trawl gear in the St. Matthew Island Habitat Conservation Area. Additionally, several other prohibitions and restrictions on commercial fishing gear are in place around and nearby St. Matthew Island.

The SMBKC stock has been in a low productivity phase since 1996 and population recovery will be greatly influenced by future environmental conditions. Despite existing protections and frequent fishery closures, the stock has remained in this low productivity phase. Projections of stock recovery incorporate ecosystem constraints on productivity by forecasting recruitment based on an empirically derived stock-recruit parameters.

3. Eastern Bering Sea snow crab (*Chionoecetes opilio*)

On October 19, 2021, NMFS determined and notified the Council that the Eastern Bering Sea (EBS) snow crab stock was overfished because the estimated mature male biomass is below the minimum stock size threshold specified in the crab fishery management plan (FMP). To comply section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Council developed a rebuilding plan to be implemented prior to the start of the 2023/2024 fishing season. The rebuilding plan is consistent with the MSA and with National Standard 1 (NS1) Guidelines on time for rebuilding. Specifically, rebuilding within a time (T_{target}) that is as short as possible, taking into account the status and biology of any overfished stocks, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock with the marine ecosystems.

The projected target time for rebuilding, taking into account the biology of the species and current environmental conditions, is 6 years. Through the FMP, the State of Alaska is delegated management of the EBS snow crab fishery. The State sets a preseason TAC and (GHL, and announces season or area closures when the TAC or GHL is reached. The State of Alaska's EBS snow crab harvest strategy applies during rebuilding and is provided in the Alaska Administrative Code at 5 AAC 35.517. The State harvest strategy is more conservative than the FMP's control rule parameters for EBS snow crab because, under the harvest strategy, a higher level of biomass is required to open directed fishing than under the F_{OFL} control rule. Throughout the rebuilding plan for EBS snow crab, several sources of information would be maintained to facilitate the determination of adequate progress.

The NMFS eastern Bering Sea bottom-trawl survey provides data for annual assessment of the status of crab stocks in the BSAI, including EBS snow crab, and would continue throughout rebuilding. The BSAI Crab Plan Team would report stock status and progress towards the rebuilt level in the Stock Assessment and Fishery Evaluation (SAFE) Report for Eastern Bering Sea snow crab. Additionally, ADF&G and NMFS will continue to monitor directed fishery catch and bycatch of snow crabs in other fisheries. ADF&G requires full observer coverage (100%) for catcher processors and partial coverage (30%) for catcher vessels participating in the fishery. Observers monitor harvest at sea and landings by catcher vessels and shoreside processors. ADF&G reports the total harvest from the commercial fishery and that report will be included annually in the SAFE. The contribution of the rebuilding plan's assessment and monitoring to stock recovery would be additive to measures already in place that limit the effects of fishing activity on EBS snow crab.

The main driver in the speed of rebuilding is likely related to recruitment and the ecosystem conditions that allow for increased recruitment into the population. Uncertainty surrounding recruitment and mortality under current ecosystem conditions is expected to heavily influence the rate at which the stock is able to rebuild under the proposed projection parameters. Fishing mortality under the State's current harvest strategy is expected to have only insignificant or minimal impacts on the rate of rebuilding.

3.3 Category 1 Federal Management Measures Fixed By The FMP

3.3.1 Permit Requirements

Limitation Program as described in Section 3.3.2. and regulated by 50 CFR 679. Vessel moratorium permits are required through December 31, 1998, unless the moratorium is extended by the Council. Upon expiration of the vessel moratorium, an approved License Limitation Program, as described in Section 3.3.2. and regulated by 50 CFR 679, would require a Federal Crab License for vessels. As noted in Section 3.3.2, a Federal Crab License will be required on vessels participating in the BSAI king and Tanner crab fisheries. This FMP assumes that all crab fishermen are licensed and vessels are licensed and registered under the laws of the State, and as such, while fishing in the EEZ are subject to all State regulations that are consistent with the FMP, MSA, and other applicable Federal law. This assumption is based on the requirement of lending institutions and insurance companies that the crab vessels be registered with the State of Alaska and be able to enter State waters. If, in the future, vessels participate in the fishery without registering with the State, it is likely that a plan amendment will be required. State registered vessels are subject to enforcement sanctions issued pursuant to State procedures.

NMFS requires that vessel operators in the BSAI king and Tanner crab fisheries maintain a Federal logbook and delegates all other reporting requirements to the State. Vessel operators are required to record information on at sea discards of groundfish, Pacific herring, Pacific halibut, Pacific salmon, king crab, and Tanner crab in catcher vessel Federal Daily Fishing Logbooks (FDFLs) or catcher processor Daily Cumulative Production Logbooks (DCPLs).

3.3.2 Limited Access

3.3.2.1 Vessel License Limitation

A vessel license limitation program (LLP) was approved as Amendment 5 on September 12, 1997 and requires a Federal Crab License on harvesting vessels (including harvester/processors) participating in the BSAI King and Tanner Crab fisheries. Vessels fishing in State waters will be exempt, as will vessels **≤ less than or equal to 32'**. The LLP will replace the vessel moratorium and will last until the Council replaces or rescinds the action. The crab CDQ portion of Amendment 5 became effective March 23, 1998. The crab CDQ program establishes the crab CDQ reserve and authorizes the State of Alaska to allocate the crab CDQ reserve among CDQ groups and to manage crab harvesting activity of the BSAI CDQ groups.

Beginning on January 1, 2000 a Federal Crab License is required on harvesting vessels (including harvester/processors) participating in the BSAI King and Tanner Crab fisheries. Vessels fishing in State waters will be exempt, as will vessels $\leq 32'$. The LLP will replace the vessel moratorium and will last until the Council replaces or rescinds the action.

In addition to the original qualification requirements, a vessel must also have made a legal landing of any LLP crab species between January 1, 1996 and February 7, 1998 to qualify for a general license and the species/area endorsements earned under the original LLP qualification, with the following exemptions:

1. Vessels with only a Norton Sound red and blue summer king crab endorsement.
2. All vessels that are less than 60' LOA and are qualified under the original LLP.
3. Vessels that made landings in the BSAI crab fishery in 1998, on or before February 7, 1998, and for which the owner acquires license limitation rights from a vessel that meets the general qualification period (GQP) and endorsement qualification period (EQP) landing requirements.
4. A vessel that was lost or destroyed and which made a landing in the BSAI crab fishery at any time from the time when the vessel left the fishery through January 1, 2000. A vessel would be deemed to have met the recent participation criteria and would be granted a general license and all the species/area endorsements to which it was entitled under the original crab LLP.

Regarding the new provisions above, the recent landings requirement applies to each potentially qualified vessel. Further, the acquisition of any qualifying history, or entering into a contract for such acquisition, must have occurred by 8:36 a.m. Pacific time on October 10, 1998.

These provisions do not preclude a vessel owner from combining catch histories to accommodate the recency requirements so long as these histories were acquired prior to 8:36 a.m. Pacific time on October 10, 1998.

3.3.2.1.1 Elements of the License Limitation Program

1. Nature of Licenses. General crab licenses will be issued for BSAI king and Tanner crab fisheries covered under the FMP, with the following species/area endorsements:
 - a. Pribilof red and Pribilof blue king crab
 - b. *C. opilio* and *C. bairdi*
 - c. St. Matthew blue king crab
 - d. Adak brown king crab
 - e. Adak red king crab
 - f. Bristol Bay red king crab
 - g. Norton Sound red and Norton Sound blue summer king crab

Species/area combinations not listed above may be fished by any vessel that holds a valid Federal crab license regardless of the endorsements attached to the license, if those fisheries are open and the vessel meets all other State and Federal regulatory requirements.

2. License Recipients. Licenses will be issued to current owners (as of June 17, 1995) of qualified vessels, except in the Norton Sound summer red and blue king crab fisheries. Licenses for these fisheries would be issued to:
 - a. Individuals who held a State of Alaska Permit for the Norton Sound summer king crab fisheries and made at least one landing; or

- b. Vessel owners as of June 17, 1995 in instances where a vessel was corporate owned, but operated by a skipper who was a temporary contract employee.

The owners as of this date must be “persons eligible to document a fishing vessel” under Chapter 121, Title 46, U.S.C. In cases where the vessel was sold on or before June 17, 1995, and the disposition of the license qualification history was not mentioned in the contract, the license qualification history would go with the vessel. If the transfer occurred after June 17, 1995, the license qualification history would stay with the seller of the vessel unless the contract specified otherwise.

3. License Designations. Licenses and endorsements will be designated as Catcher Vessel or Catcher Processor and with one of three vessel length classes (<60’, ≥60’ but < 125’, or ≥ 125’ LOA).
4. Who May Purchase Licenses. Licenses may be transferred only to “persons” defined as those “eligible to document a fishing vessel” under Chapter 121, Title 46, U.S.C. Licenses may not be leased.
5. Vessel/License Linkages. Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than the one to which the license was initially issued. However, the new vessel is still subject to the license designations, vessel upgrade provisions, 20% upgrade rule (defined in provision seven) , and the no leasing provision. Licenses may be applied to vessels shorter than the “maximum LOA” regardless of the length of the vessel class designations. Vessels may also use catcher processor licenses on catcher vessels. However, the reverse is not allowed. It was the Council’s intent that vessels be allowed to “downgrade”.
6. Separability of General Licenses and Endorsements. General licenses may be issued for the Bering Sea /Aleutian Islands groundfish, Gulf of Alaska groundfish, and Bering Sea /Aleutian Islands crab fisheries. Those general licenses initially issued to a person based on a particular vessel’s catch history are not separable and shall remain as a single “package”, except that a BSAI general crab license may be separated solely for the purposes of a crab license buyback program if such is approved by the Council and Secretary. General licenses transferred after initial allocation shall remain separate “packages” in the form they were initially issued, and will not be combined with other general groundfish or crab licenses the person may own. Species/area endorsements are not separable from the general license they are initially issued under, and shall remain as a single “package,” which includes the assigned catcher vessel/catcher processor and length designations.
7. Vessel Replacements and Upgrades. Vessels may be replaced or upgraded within the bounds of the vessel length designations and the “20% rule”. This rule was originally defined for the vessel moratorium program. The maximum length over all (MLOA) with respect to a vessel means the greatest LOA of that vessel or its replacement that may qualify it to conduct directed fishing for groundfish covered under the license program, except as provided at §676.4(d). The MLOA of a vessel with license qualification will be determined by the Regional Director as follows:
 - a. For a vessel with license qualification that is less than 125’ LOA, the maximum LOA will be equal to 1.2 times the vessel’s original qualifying length or 125’, whichever is less; and
 - b. For a vessel with license qualification that is equal to or greater than 125’, the maximum LOA will be equal to the vessel’s original qualifying length.

If a vessel upgrades under the “20% rule” to a length which falls into a larger license length designation after June 17, 1995, then the vessel owner would be initially allocated a license and endorsement(s) based on the vessels June 17, 1995 length. Those licenses and endorsements could not be used on the qualifying vessel, and the owner would be required to obtain a license for that vessel’s designation before it could be fished. Vessels in the Norton Sound summer king crab fisheries may upgrade more than 20% (as defined in the 20% rule) so long as the vessel does not exceed 32’ LOA after the upgrade is complete.

8. License Ownership Caps. No more than five general crab licenses may be purchased or controlled by a “person,” with grandfather rights to those persons who exceed this limit in the initial allocation. Persons with grandfather rights from the initial allocation must be under the five general license cap before they will be allowed to purchase any additional licenses. A “person” is defined as those eligible to document a fishing vessel under Chapter 121, Title 46, U.S.C. For corporations, the cap would apply to the corporation and not to share holders within the corporation.
9. Vessel License Use Caps. There is no limit on the number of licenses (or endorsements) which may be used on a vessel.
10. Changing Vessel Designations. If a vessel qualifies as a catcher processor, it may select a one time (permanent) conversion to a catcher vessel designation.
11. Implement a Skipper Reporting System. NMFS will implement a skipper reporting system which requires crab license holders to report skipper names, addresses, and service records.
12. CDQ Vessel Exemption. Vessels < 125’ obtained under an approved CDQ plan to participate in both CDQ and non-CDQ target fisheries, will be allowed to continue to fish both fisheries without a license, provided such vessel was under construction or operating in an existing CDP as of October 9, 1998. If the vessel is sold outside the CDQ plan, the vessel will no longer be exempt from the rules of the crab license program.
13. Lost Vessels. Vessels which qualified for the moratorium and were lost, damaged, or otherwise out of the fishery due to factors beyond the control of the owner and which were replaced or otherwise reentered the fishery in accordance with the moratorium rules, and which made a landing any time between the time the vessel left the fishery and June 17, 1995, will be qualified for a general license and endorsement for that species/area combination.
14. Licenses Represent a use Privilege. The Council may alter or rescind this program without compensation to license holders; further, licenses may be suspended or revoked for (serious and/or multiple) violations of fisheries regulations.

3.3.2.1.2 CDQ Allocation

- a. CDQs will be issued ~~for an allocation of 7.5% of the NSRKC GHL, and 10% of the TAC for the following fisheries in the CR program: Bristol Bay red king crab, Bering Sea snow crab, Eastern Bering Sea Tanner crab, Western Bering Sea Tanner crab, Pribilof Islands blue and red king crab, Saint Matthew Island blue king crab, Western Aleutian Islands golden king crab, Eastern Aleutian Islands golden king crab, and Western Aleutian Island red king crab~~ Guideline Harvest Level set by the State of Alaska. The program will be patterned after the pollock CDQ program (defined in the BSAI groundfish FMP), but will not contain a sunset provision. Also, Akutan will be included in the list of eligible CDQ communities.

3.3.3 Superexclusive Registration in Norton Sound

This FMP establishes the Norton Sound Section of the Northern District of the king crab fishery as a superexclusive registration area. Any vessel registered and participating in this fishery would not be able to participate in other BSAI red and blue king crab fisheries, such as Adak, Bristol Bay, Pribilof, or St. Matthew, during that registration year. The Norton Sound fishery is the only superexclusive registration area authorized by this FMP.

3.3.4 American Fisheries Act (AFA) sideboard restrictions

On October 21, 1998, the President signed into law the American Fisheries Act (AFA) which mandated sweeping changes to the conservation and management program for the pollock fishery of the BSAI and to a lesser extent, affected the management programs for the other groundfish fisheries of the BSAI the groundfish fisheries of the GOA, the king and Tanner crab fisheries of the BSAI, and the scallop fishery off Alaska. With respect to the fisheries off Alaska, the AFA requires a suite of new management measures that fall into four general categories: (1) regulations that limit access into the fishing and processing sectors of the BSAI pollock fishery and that allocate pollock to such sectors, (2) regulations governing the formation and operation of fishery cooperatives in the BSAI pollock fishery, (3) sideboard regulations to protect other fisheries from spillover effects from the AFA, and (4) regulations governing catch measurement and monitoring in the BSAI pollock fishery.

While the AFA primarily affects the management of the BSAI pollock fishery, the Council is also directed to develop and recommend harvesting and processing sideboard restrictions for AFA catcher vessels, AFA catcher/processors, AFA motherships, and AFA inshore processors that are fishing for or processing king and Tanner crab harvested in the BSAI. Section 211 of the AFA addresses crab harvesting and processing sideboards and this entire section of the AFA is incorporated into the AFA by reference. Crab harvesting and processing sideboard restrictions that are consistent with section 211 of the AFA will be implemented through regulation or provided to the Board of Fish as recommendations. Any measure recommended by the Council that supersedes section 211 of the AFA must be implemented by FMP amendment in accordance with the provisions of section 213 of the AFA and the Magnuson-Stevens Act.

Limits on participation by AFA vessels. NMFS may issue regulations, as approved by the Council, which define the participation criteria for AFA vessels that wish to participate in the king and/or Tanner crab fisheries of the BSAI.

3.3.5 Legal Gear

Trawls and tangle nets are specifically prohibited because of the high mortality rates which they inflict on nonlegal crab. Specification of legal gear is important to attainment of the biological conservation and economic and social objectives of this FMP.

3.3.6 Essential Fish Habitat and Areas of Particular Concern

3.3.6.1 Description of Essential Fish Habitat

Section 303(a)(7) of the MSA requires FMPs to describe and identify Essential Fish Habitat (EFH), minimize to the extent practicable adverse effects of fishing on EFH, and identify other actions to conserve and enhance EFH. This FMP describes king and tanner crab EFH in text, maps EFH distributions, and includes information on habitat and biological requirements for each life history stage of the species. Appendix D contains this required information, as well as identifying an EFH research approach.

3.3.6.2 Description of Habitat Areas of Particular Concern

The EFH regulations at 50 CFR 600.815(a)(8) provide the Councils with guidance to identify habitat areas of particular concern (HAPCs). HAPCs are meant to provide greater focus to conservation and

management efforts and may require additional protection from adverse effects. FMPs should identify specific types or areas of habitat within EFH as HAPCs based on one or more of the following considerations:

1. the importance of the ecological function provided by the habitat;
2. the extent to which the habitat is sensitive to human-induced environmental degradation;
3. whether, and to what extent, development activities are, or will be, stressing the habitat type; or
4. the rarity of the habitat type.

Proposed HAPCs, identified on a map, must meet at least two of the four considerations established in 50 CFR 600.815(a)(8), and rarity of the habitat is a mandatory criterion. HAPCs may be developed to address identified problems for FMP species, and they must meet clear, specific, adaptive management objectives.

The Council will initiate the HAPC process by setting priorities and issuing a request for HAPC proposals. Any member of the public may submit a HAPC proposal. HAPC proposals may be solicited every 5 years, to coincide with the EFH 5-year review, or may be initiated at any time by the Council. The Council will establish a process to review the proposals. The Council may periodically review existing HAPCs for efficacy and considerations based on scientific research.

In 2005, the Council identified the following areas as HAPCs within EFH:

- Alaska Seamount Habitat Protection Areas
- Bowers Ridge Habitat Conservation Zone

Maps of these HAPCs, as well as their coordinates, are contained in Appendix D.

3.3.6.3 Conservation and Enhancement Recommendations for EFH and HAPC

Appendix D identifies fishing and non-fishing threats to EFH. Conservation and enhancement recommendations for non-fishing threats to EFH and HAPCs are described therein.

In order to protect EFH from fishing threats, the Council established the following areas (maps of these areas, as well as their coordinates, are contained in Appendix D):

- Aleutian Islands Habitat Conservation Area
- Aleutian Islands Coral Habitat Protection Areas
- Alaska Seamount Habitat Protection Areas
- Bowers ridge habitat conservation zone

In order to minimize adverse effects of fishing, the Council established restrictions for the EFH conservation areas and HAPCs. These restrictions are described below.

Aleutian Islands Habitat Conservation Area

The use of nonpelagic trawl gear is prohibited year-round in the Aleutian Islands Habitat Conservation Area, except in designated areas; however, the use of trawl gear is prohibited in the king and tanner crab fisheries (see Section 3.3.1).

Aleutian Islands Coral Habitat Protection Areas

The use of bottom contact gear, as described in 50 CFR part 679, and anchoring by federally permitted fishing vessels is prohibited in the Aleutian Islands Coral Habitat Protection Areas.

Alaska Seamount Habitat Protection Areas

The use of bottom contact gear and anchoring by a federally permitted fishing vessel, as described in 50 CFR part 679, is prohibited in the Alaska Seamount Habitat Protection Area. Anchoring by a federally permitted fishing vessel, as described in 50 CFR part 679, is also prohibited.

Bowers Ridge Habitat Conservation Zone

The use of mobile bottom contact gear, as described in 50 CFR part 679, is prohibited in the Bowers Ridge Habitat Conservation Zone.

3.3.6.4 Review of EFH and HAPC

An annual review of existing and new EFH information will be conducted by NMFS or the Council and this information will be provided to the Crab Plan Team for their review during the annual SAFE process. To address regulatory guidelines for review and revision of EFH FMP components, the Council will conduct a complete review of all the EFH components of the FMP once every 5 years and will amend the FMP as appropriate to include new information.

Additionally, the Council may solicit proposals for HAPCs and/or conservation and enhancement measures to minimize the potential adverse effects of fishing. Any proposal endorsed by the Council would be implemented by FMP amendment. HAPC proposals may be solicited every 5 years, coinciding with the EFH 5-year review, or may be initiated at any time by the Council

3.3.7 Federal Observer Requirements

Any vessel fishing for king or Tanner crab, and/or processing king crab or Tanner crab within the BSAI area, shall be required to take aboard an observer, when so requested by the Director, Alaska Region, NMFS. Such an observer requirement may be imposed, notwithstanding the existence of a State mandated observer program for State registered vessels. To the maximum extent practicable, the Regional Administrator will coordinate any Federal observer program with that required by the State.

Observers are necessary aboard some crab fishing and/or processing vessels to obtain needed information such as catch per unit of effort (CPUE), species composition, sex composition, size composition of the catch, proportion of soft-shell crab being handled, and other information required to manage the crab stocks in the BSAI area.

Observer requirements are important to attainment of the biological conservation and research and management objectives of this FMP.

3.4 BSAI Crab Rationalization Program

The Council developed a “voluntary three pie cooperative” program intended to protect the interests of the BSAI crab harvest sector, the processing sector, and defined regions and communities. Allocations of harvesting and processing privileges under the program are based on historic participation to protect investment in and reliance on the program fisheries.

There are nine crab fisheries in the BSAI rationalized under the program,² specifically:

1. Bristol Bay red king crab
2. Bering Sea snow crab (*C. opilio*)
3. Eastern Bering Sea Tanner crab (*C. bairdi*) – East of 166° W longitude
4. Western Bering Sea Tanner crab (*C. bairdi*) – West of 166° W longitude
5. Pribilof Islands blue and red king crab
6. Saint Matthew Island blue king crab
7. Western Aleutian Islands (Adak) golden king crab – West of 174° W longitude
8. Eastern Aleutian Islands (Dutch Harbor) golden king crab – East of 174° W longitude

² Some crab fisheries are considered one unit stock for assessment purposes, but are managed as more than one fishery. For example, Eastern and Western Aleutian Islands golden king crab are assessed as one stock, but are managed as distinct fisheries with separate TACs. There are 10 stocks assessment conducted for the BSAI crab fisheries: Eastern Bering Sea *C. opilio*, Bristol Bay red king crab, Eastern Bering Sea Tanner crab, Pribilof Islands red king crab, Pribilof District blue king crab, Saint Matthew blue king crab, Norton Sound red king crab (not rationalized), Aleutian Islands golden king crab (not fully rationalized), Pribilof Islands golden king crab (not rationalized), and Western Aleutian Islands red king crab.

9. Western Aleutian Islands (Petrol Bank District) red king crab – West of 179° W longitude

When the CR program was implemented, the Eastern Aleutian Island *C. bairdi*, Western Aleutian Island Tanner crab, Dutch Harbor red king crab, Western Aleutian Island red king crab located east of 179° West longitude, and the Norton Sound red king crab stocks were excluded from the rationalization program. Currently, the only federally managed crab stocks excluded from the CR program are Norton Sound Red King Crab and Pribilof Island Golden King crab. When the CR program was implemented in 2005, the Eastern Bering Sea *C. bairdi* crab fishery and Western Bering Sea *C. bairdi* crab fishery were one fishery for management purposes.³

The Council designed the CR program as a “voluntary three pie cooperative” program, with elements built in to address interests of the harvesters, processors, and the communities dependent upon crab fisheries. The primary elements of the voluntary three pie cooperative CR program are:

1. Total allowable catch (TAC)
2. Harvesting sector elements including Crew shares
3. Processing sector elements
4. Regionalization elements
5. Binding arbitration system
6. Cooperatives
7. Community Development Quota and Adak allocations
8. Observer Requirements
9. Sideboards
10. Economic data collection program
11. Federal Cost Recovery Program

Following the implementation of the CR program, a formal program review took place at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the CR problem statement and the Magnuson-Stevens Act standards. This review included an analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. In 2019, the Council specified that subsequent program reviews are required every 7 years, in alignment with the requirement in the Magnuson-Stevens Act (303A(c)(G)).

The remainder of this section describes each of these program elements.

3.4.1 Total Allowable Catch

Each program fishery is managed with a TAC, which sets a specific catch limit, instead of a GHL. To discourage harvesters from exceeding the TAC in a program fishery, any overharvest of an allocation is a violation. Although penalties are at the discretion of NOAA Office of Law Enforcement and NOAA General Counsel, the Council has recommended that all overages be subject to forfeiture and that additional penalties be imposed only for overages in excess of 3% of a harvester’s shares at the time of landing. Once the TAC is set for the fishery, 10% of this amount is available for the Community Development Program (CDQ) Program or Adak Community Allocation (in the Western Aleutian Islands golden king crab fishery) and 90% of the TAC is converted into IFQ for harvest under the CR Program.

Amendment 28 amended the program to allow post-delivery transfers of IFQ. This amendment was intended to improve the flexibility to the fleet, reduce the number of violations for overages, reduce

³ Both Eastern and Western Bering Sea Tanner crab fisheries are part of the “Eastern Bering Sea Tanner crab” stock. This stock was further divided into an Eastern and Western fishery through Amendment 20 in an effort to reduce localized depletion.

enforcement costs, and allow more complete harvest of crab allocations without exceeding the overall TAC.

3.4.2 Harvesting Sector Elements

Harvesting quota shares (QS) were created in each crab fishery under the CR Program. QS are a revocable privilege and not a property right. QS allows the holder to harvest a specific percentage of the annual TAC in a program fishery.

Crab QS are designated as either catcher vessel QS or catcher processor (CP) QS, depending on whether the vessel that created the privilege processed the qualifying landings on board. Approximately 97% of the QS in each program fishery is referred to as “owner QS”. The remaining 3% of the QS is referred to as “C shares” or “crew QS”. These types of harvesting QS were initially allocated based on different criteria described below.

3.4.2.1 Owner QS/IFQ Allocation

To be eligible for an initial allocation of owner QS in a program fishery a harvester must have a valid, permanent, fully transferable License Limitation Program (LLP) license endorsed for the fishery.

QS can be assigned for any of the participating fisheries (S3.4.2ection 3.8.2.), and separate QS can be assigned for fisheries that are considered one unit stock for assessment purposes but are managed as more than one fishery. For example golden king crab can be split into Eastern Aleutian Islands golden king crab located east of 174° W long and Western Aleutian Islands golden king crab west of 174° W longitude, and Tanner crab whereby Eastern *C. bairdi* crab are located east of 166° W longitude and Western *C. bairdi* crab west of 166° W longitude.

- Calculation of QS distribution: A harvester’s allocation of initial QS in a fishery will be based on landings in that fishery, excluding landings of deadloss.

The calculation is to be done, on a vessel-by-vessel basis, as a percent of the total catch, year-by-year during the qualifying period. Then the sum of the yearly percentages, on a fishery-by-fishery basis, is to be divided by the number of qualifying years included in the qualifying period on a fishery-by-fishery basis to derive a vessel’s QS.

Each allocation was the harvester’s average annual portion of the total qualified catch during a specific qualifying period. Initial allocation was based on qualifying periods during historical participation and recent participation.

For each of the fisheries for which such a vessel holds valid endorsement for any years between the sinking of the vessel and the entry of the Amendment 10 replacement vessel to the fishery and was active as of June 10, 2002, allocate QS according to 50% of the vessel’s average history for the qualifying years unaffected by the sinking.

Additional Sunken Vessel Provision: The following provision would apply to persons whose eligibility to replace their vessel was initially denied under PL 106-554. The sunken vessel must have been replaced with a newly constructed vessel and have been under construction by June 10, 2002, and participated in a Bering Sea crab fishery by October 31, 2002 for a person to receive a benefit under this provision.

For each of the fisheries for which such a vessel holds a valid endorsement , for all seasons between the sinking of the vessel and the entry of the replacement vessel to the fishery within the IRS replacement period (as extended by the IRS, if applicable) allocate QS according to 50 percent of the vessel’s average history for the qualifying years unaffected by the sinking. Construction means the keel has been laid.

- Basis for QS distribution: For eligibility criteria, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per vessel:

In cases where the fishing privileges (i.e. moratorium qualification or LLP license) of an LLP qualifying (i.e. GQP, EQP, RPP and Amendment 10 combination) vessel have been transferred, the distribution of QS to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. Only one catch history per LLP license. The only catch histories that may be credited by transfer under this suboption are the individual catch histories of vessels that generate a valid permanent fully transferable LLP license.

- Qualifying Periods for determination of the QS Distribution: The periods for each stock are detailed below:
 - Opilio (EBS snow crab): the 4 seasons with the greatest total legal landings between 1996 - 2000 (5 seasons)
 - Bristol Bay red king crab: the 4 seasons with the greatest total legal landings between 1996 - 2000 (5 seasons)
 - Bairdi (EBS *C. bairdi*): the 4 seasons with the greatest total legal landings between 1991/92 - 1996 (6 seasons)
 - Pribilof red and blue king crab: the 4 seasons with the greatest total legal landings between 1994 - 1998 (5 seasons)
 - St. Matthew blue king crab: the 4 seasons with the greatest total legal landings between 1994 - 1998 (5 seasons)
 - Golden king crab (based on biological seasons)⁴: 1996/97 - 2000/01 (all 5 seasons)
 - Adak red king crab - west of 179° West long.: the 3 seasons with the greatest total legal landings between 1992/1993 – 1995/1996 (4 seasons)

3.4.2.2 Categories of QS/ IFQ

Sector Categories: Owner QS are designated as either catcher vessel QS or CP QS, depending on whether the vessel that created the privilege processed the qualifying landings on board. This shall confer the right to harvest and process crab aboard a catcher processor in accordance with Section 3.4.2.

Regional Categories: QS/IFQs for the CV sector may be assigned to the following regional categories⁵:

North Region - All areas on the Bering Sea north of 56° 20' N. Latitude.

South Region - All areas not included in the North Region.

Western and Eastern regions - Regional categories for deliveries of Aleutian Islands golden king crab are split into a "Western" (west of 174° West long.) and "Eastern" (east of 174° West long.) area. Fifty percent of the Western AI IPQ golden king crab QS shall be processed in the Western AI region.

Further description of regional share designation can be found in Section 3.4.2.2.

QS Class Categories: The corresponding annual allocations, which are expressed in pounds, are referred to as individual fishing quota (IFQ) are calculated using the TAC. The size of each annual IFQ allocation

⁴ There is no prohibition against sorting crab at the rail, and it is common practice to discard females or sub-legal sized crab immediately after the pot is brought on board. While not debited from an individual account, discard mortality is estimated from observer data and factored into the total removals necessary for stock assessments.

⁵ Regional categorization does not apply to Tanner crab, *C. bairdi* fishery. Additionally, in the Western Aleutian Island (Adak) golden king crab fishery, the designation is based on an east/west line to accommodate a different distribution of activity in that fishery.

is based on the amount of QS held in relation to the QS pool in a program fishery — a person holding 1% of the QS pool receives IFQ to harvest 1 % of the annual TAC in the fishery. IFQ TACs do not include pounds that have been set aside for the CDQ program. All crab that is sold or kept for personal use, and all deadloss is debited against the IFQ account of the allocation holder. Legal discards, however, are not counted against an IFQ holder’s account.⁶

Catcher vessel owner IFQ are issued in two processor delivery classes Class A IFQ and Class B IFQ. Crab harvested using Class A IFQ must be delivered to a processor holding unused individual processing quota (IPQ). In addition, Class A IFQ are subject to regional share designations, whereby harvests are required to be delivered within an identified region.⁷ The delivery restrictions of Class A IFQ are intended to add stability to the processing sector by protecting processor investment in program fisheries and to preserve the historic distribution of landings and processing between regions.

Crab harvested using Class B IFQ can be delivered to any processor that is a registered crab receiver (except a CP) regardless of whether the processor holds unused IPQ. In addition, Class B IFQ are not regionally designated. The absence of delivery restrictions on a portion of the catch is intended to provide harvesters with additional market leverage for negotiating prices for landings of crab.

The determination of whether and how much Class B versus Class A catcher vessel owner IFQ a person receives is determined by their association with processor quota share (PQS) holdings. If a person holds (or has equity in) both IPQ and IFQ, then that person will be issued Class A IFQ only for the amount of IFQ equal to the amount of IPQ held by that person. Any remaining IFQ held by that person will be issued as Class A and Class B IFQ in a ratio so that the total Class A and Class B IFQ issued in that crab QS fishery is issued as 90% Class A IFQ and 10% Class B IFQ. Consequently, Class B IFQ are allocated to a harvester only to the extent that the QS held by the harvester exceeds the amount of PQS held by that harvester and its affiliates.

If a CVO QS holder has no affiliation with PQS, they are issued Class A and Class B IFQ in a 90:10 ratio, respectively. The absence of an affiliation with a holder of processing shares is established by a QS holder filing an annual affidavit identifying any PQS holdings or affiliations with PQS holders.

3.4.2.3 Transferring and Leasing QS/IFQ

Transfer of QS/ IFQ: QS and IFQ are transferrable under the program, subject to limits on the amount of shares a person may own or use. Persons eligible to receive QS/IFQs by transfer must be either:

1. A US citizen who has spent 150 days of sea time, defined as participating in any of the U.S. commercial fisheries in a harvesting capacity.
2. Entities that have a U.S. citizen with 20% or more ownership and at least 150 days of sea time and, and the corporation is at least 75% U.S. owned.

Initial recipients of harvesting QS are grandfathered in.

CDQ organizations are exempt from the restriction for the 150 days of sea time requirement Initial recipients of QS and CDQ groups are exempt from these eligibility criteria. The A/B share component of QS will be linked for purposes of transfers.

Amendment 28 permitted IFQ transfers have been allowed post-delivery to remedy a harvest overage.

⁶ There is no prohibition against sorting crab at the rail, and it is common practice to discard females or sub-legal sized crab immediately after the pot is brought on board. While not debited from an individual account, discard mortality is estimated from observer data and factored into the total removals necessary for stock assessments.

⁷ The EBT and WBT Tanner crab QS, and a portion of the WAG golden king crab QS, are considered undesignated because they do not carry a regional landing designation.

Leasing of QS/ IFQ: Leasing of QS is equivalent to the sale of IFQs without the accompanying QS. Leasing is defined as the use of IFQ on a vessel in which the owner of the underlying QS holds less than a 10% ownership interest and on which the underlying QS holder is not present.

Leasing QS is allowed with no restrictions during the first five years after program implementation. IFQ may be leased (i.e., transferred) after a delivery to cover any potential overages, provided that the IFQ account of the person conducting the lease has a positive balance before starting a fishing trip and at least a zero balance by June 30, the end of the crab fishing year.

3.4.2.4 QS Ownership Caps

Individual use caps are imposed on the use and holdings of harvest shares by any person in order to prevent excessive consolidation of shares under the program.⁸ Different caps apply to owner share holdings and C share holdings. Separate and distinct QS ownership caps apply to all harvesting QS categories pertaining to a given crab fishery with the following provisions:

1. Initial issues that exceed the ownership cap are grandfathered at their current level as of June 10, 2002; including transfers by contract entered into as of that date.
2. Apply individually and collectively to all QS holders in each crab fishery;
3. A person may not hold QS in excess of the amount specified as follows:
 - 1.0% of the total QS pool for Bristol Bay red king crab.
 - 1.0% of the total QS pool for Opilio crab.
 - 1.0% of the total QS pool for Eastern Bairdi crab.
 - 1.0% of the total QS pool for Western Bairdi crab.
 - 2.0% of the total QS pool for Pribilof red and blue king crab.
 - 2.0% of the total QS pool for St. Matthew blue king crab.
 - 10% of the total QS pool for Eastern Aleutian Islands golden king crab
 - 10% of the total QS pool for Western Aleutian Islands golden king crab
 - 10% of the total QS pool for Western Aleutian Islands red king crab west of 179° West longitude.

Any CR Program holdings by CDQ groups, who each represent the interests of one or more BSAI communities, are subject to higher caps. A “grandfather” provision exempted persons who received an initial allocation of QS in excess of the cap. The following ownership caps shall apply to CDQ ownership of crab QS:

- **Bristol Bay red king crab:** **5%**
- **Bering Sea opilio crab:** **5%**
- **Eastern Bering Sea bairdi crab** **5%**
- **Western Bering Sea bairdi crab** **5%**
- **Pribilof red and blue king crab** **10%**
- **St. Matthew blue king crab** **10%**
- **Aleutian Islands golden king crab** **20%**
- **Western Aleutian Islands red king crab** **20%**
- **Western Aleutian Islands golden king crab** **20%**

The Council shall apply the individual and collective rule for calculation of the CDQ ownership caps, under which the holder of an interest in an entity will be credited with holdings in proportion to its interest in the entity.

⁸ In other catch share programs (e.g. the halibut sablefish IFQ program) individual use caps are called “QS use caps”. They are also sometimes referred to as “ownership caps”.

To protect independent vessel owners and processors that are not vertically integrated, processor quota share (PQS) holdings are also limited by caps on vertical integration.

PQS shareholders have a cap of 5% with grandfathering of initial allocations as of June 10, 2002, including transfers by contract entered into as of that date. Additionally, vertical integration ownership caps on processors shall be implemented using both the individual and collective rule using 10% minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level. The 5 percent cap on QS holdings by processors shall exempt only the primary corporate processing entity from more restrictive generally applicable caps on QS holdings. All individuals and subsidiaries will be subject to the general caps on QS holdings.

Processor Holdings of Harvest Shares (A/B Share Issue)

Crab harvester QS held by IPQ processors and persons affiliated with IPQ processors will only generate class A annual IFQ, so long as such QS is held by the IPQ processor or processor affiliate.

IPQ processors and affiliates will receive class A IFQ at the full poundage appropriate to their harvesters QS percentage.

Independent (non-affiliated) harvesters will receive class B IFQ pro rata, such that the full class B QS percentage is allocated to them in the aggregate.

“Affiliation” will be determined based on an annual affidavit submitted by each QS holder. A person will be considered affiliated, if an IPQ processor controls delivery of a QS holder’s IFQ.

3.4.2.5 Catcher Processor Elements

CPs shall be granted CP QS in the same manner as catcher vessels. CP QS represents a revocable privilege to harvest and process a certain percentage of the crab species TAC.

Allowance for CPs:

- CPs are allowed to purchase additional PQS from shore based processors as well as PQS from other CPs as long as the crab is processed within 3 miles of shore in the designated region.
- CPs may sell unprocessed crab to any processor
- Only CPs that both caught and processed crab onboard their qualifying vessels in any BSAI crab fishery during 1998 or 1999 will be eligible for any CP QS in any IFQ or Coop program.
- CP-QS initially issued to a CP shall not be regionally or community designated.
- The CP sector is capped at the aggregate level of initial sector-wide allocation.
 - A. The CP sector-wide cap applies only to CP shares and not to the use or ownership of processing shares by CPs.
 - B. CP shares cannot be created by combining the processing privilege of PQS or IPQs with the harvest privilege of Class A QS or IFQs.
 - C. The CP sector-wide cap applies only to CP shares and not to the use or ownership of CV harvest shares by CPs.
- CPs shall be allowed to sell CP/QS as separate Catcher Vessel QS and PQS. The shares shall be regionally designated when sold (both shares to same region).
- Processing shares allocated to CPs would be regionally designated based on the historic area of processing. State records of processing activity should be adequate for determining the location of processing activity.

CP versus floating processor definition: A CP must be defined for purposes of applying the restriction on deliveries of B shares to CPs. In a share based program, definition of this sector can be problematic because vessels used as CPs have also been used as floating processors. The Council clarified that for purposes of implementing this provision, a vessel that takes deliveries of crab harvested with Class B shares would be considered a floating processor for the duration of the season and would be prohibited

from operating as a CP during that season. Likewise, a vessel that operates as a CP during a season would be prohibited from taking delivery of crab harvested with Class B shares during that season.

Conversion to CP Shares.

1. This amendment authorizes:
 - A. an eligible entity holding PQS to elect on an annual basis to work together with other entities holding PQS and affiliated with such eligible entity through common ownership to combine any CV QS for the Northern Region with their processor quota shares and to exchange them for newly created CP owner QS for the Northern Region; and
 - B. an eligible entity holding CV QS to elect on an annual basis to work together with other entities holding CV QS and affiliated with such eligible entity through common ownership to combine any processor quota shares for the Northern Region with their CV QS and to exchange them for newly created CP owner QS for the Northern Region.
2. Eligibility and Limitations.
 - A. The authority provided in paragraph (1)(A) shall
 - i. (I) apply only to an entity which was initially awarded both CP owner QS, and PQS under the plan (in combination with the PQS of its commonly owned affiliates) of less than 7 % of the BSAI PQS; or
(II) apply only to an entity which was initially awarded both catcher/processor owner quota shares under the plan and processor quota shares under section 417(a) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241; 120 Stat. 546);
 - ii. be limited to PQS initially awarded to such entities and their commonly owned affiliates under the plan or section 417(a) of that Act; and
 - iii. shall not exceed 1 million pounds per entity during any calendar year.
 - B. The authority provided in paragraph (1)(B) shall
 - i. apply only to an entity which was initially awarded both CP owner QS, and PQS under the plan (in combination with the PQS of its commonly owned affiliates) of more than 7 % of the BSAI PQS;
 - ii. be limited to CV QS initially awarded to such entity and its commonly owned affiliates; and
 - iii. shall not exceed 1 million pounds per entity during any calendar year.
3. Exchange Rate. The entities referred to in paragraph (1) shall receive under the amendment 1 unit of newly created CP owner QS in exchange for 1 unit of CV owner QS and 0.9 units of PQS.
4. Area of Validity. Each unit of newly created CP owner QS under this subsection shall only be valid for the Northern Region.

3.4.2.6 Crew Quota Shares and Allocation

To protect captains' historical interests in the program fisheries, a portion of the initial allocation of QS were issued to eligible captains and made available for transfer to active captains and crew.

1. Percentage to Captain:

An initial allocation of 3% of the annual TAC for each crab fishery included in the rationalization program shall be awarded to qualified captains as C shares and allocated as IFQ to holders of C share QS. These shares were issued at the species level, as with owner QS.

2. Eligibility

A qualified captain is determined on a fishery by fishery basis by:

1. having at least one landing in 3 of the qualifying years used by the vessels and
2. having recent participation in the fishery as defined by at least one landing per season in the fishery in two of the last three seasons prior to June 10, 2002.
3. For recency in the Adak red king, Pribilof, St. Matthew, and bairdi fisheries a qualified captain must have at least one landing per season in the opilio, BBRKC, or AI golden crab fisheries in two of the last three seasons prior to June 10, 2002 (operators of vessels under 60 feet are exempt from this requirement for the Pribilof red and blue king crab fishery).

A captain is defined as the individual named on the Commercial Fishery Entry Permit.

For captains who died from fishing-related incidents, recency requirements shall be waived and the allocation shall be made to the estate of that captain. All ownership, use, and transfer requirements would apply to C shares awarded to the estate.

3. Qualification period

As with vessels.

4. Distribution per Catcher Vessel Owner

1. C share QS based on landings (personal catch history based on ADF&G fish tickets) using harvest share calculation rule.

Regionalization and Class A/B Designation: C shares shall be a separate class of shares not subject to the Class A share delivery requirements.

Starting with the 2018-2019 crab fishing year and each year thereafter, C share QS will yield IFQ only if the individual holding that C share QS:

- a. Has participated as crew in at least one delivery of crab in a crab fishery included in the rationalization program during the three preceding crab fishing years; or
- b. Was an initial recipient of C share QS and participated as crew in at least 30 days of fishing in a commercial fishery managed by the State of Alaska or in a federal commercial fishery in that portion of the U.S. Exclusive Economic Zone off Alaska during the three preceding crab fishing years.

5. Transferability criteria

C QS may be purchased only by persons who are:

- a. US citizens who have had at least 150 days of sea time in any of the US commercial fisheries in a harvesting capacity and
- b. active participants

An “active participant” is defined by participation as captain or crew in at least one delivery in a crab fishery included in the rationalization program in the last 365 days as evidenced by ADF&G fish ticket, affidavit from the vessel owner, or evidence from other verifiable sources.

Between [May 1, 2015] and [May 1, 2019], C share QS may be acquired by an individual who is a U. S. citizen with at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery, and who either:

- a. Received an initial allocation of C share QS; or
- b. Participated in at least one delivery of crab in a crab fishery included in the rationalization program in any three of the five crab fishing years starting on July 1, 2000, through June 30, 2005.

C share leasing

- a. C share IFQ are leasable.
- b. IFQ may be leased (i.e., transferred) after a delivery to cover any potential overages, provided that the IFQ account of the person conducting the lease has a positive balance before starting a fishing trip and at least a zero balance by June 30, the end of the crab fishing year.

6. Captain/Crew on Board requirements

- a. Holders of captain QS or qualified lease recipients are required to be onboard vessel when harvesting IFQ.
- b. C share QS ownership caps for each species are :
- c. the same as the vessel use caps for each species C share ownership caps are calculated based on the C QS pool (i.e. Section 3.4.2.4). Initial allocations shall be grandfathered.
- d. Use caps on IFQs harvested on any given vessel shall not include C shares in the calculation.

7. CP Captains

Captains with CP history shall receive CP C share QS at initial issuance. CP C shares shall carry a harvest and processing privilege.

CP C shares may be harvested and processed on CPs or harvested on CVs and delivered to shore based processors.

8. Cooperatives

C share holders shall be eligible to join cooperatives.

C shares shall be included in the IFQ fee program.

9. Revocation of C share QS:

All of an individual's C share QS will be subject to revocation after June 30, 2019, unless the C share QS holder:

- a. Has participated as crew in at least one delivery of crab in a crab fishery included in the rationalization program during the four preceding crab fishing years; or
- b. Was an initial recipient of C share QS and participated as crew in at least 30 days of fishing in a commercial fishery managed by the State of Alaska or in a federal commercial fishery in that portion of the U.S. Exclusive Economic Zone off Alaska during the four preceding crab fishing years.

3.4.2.7 Other Harvester Provisions

Catch Accounting:

- Catch accounting under IFQs - All landings including deadloss will be counted against IFQs. Options for treatment of incidental catch are as follows:
- Discards of incidentally caught crab will be allowed
- Request ADF&G & BOF & BOF/NPFMC Joint Protocol Committee to address concerns of discard, highgrading, incidental catch and need for bycatch reduction and improved retention in season with monitoring to coincide with implementation of a CR program.

Use caps for vessels not participating in a cooperative:

Use caps on IFQs harvested on any given vessel are provided for those vessels not participating in a voluntary cooperative are as follows:

Two times the ownership cap:

- 2.0% for BS Opilio crab
- 2.0% Bristol Bay red king crab
- 2.0% Eastern BS bairdi crab
- 2.0% Western BS bairdi crab
- 4.0% for Pribilof red and blue king crab
- 4.0% for St. Matthew blue king crab
- 20% for Eastern Aleutian Islands golden king crab
- 20% for Western Aleutian Islands golden king crab
- 20% for Western Aleutian Islands red king crab west of 179° West longitude

If vessel's historical activity (of which is the basis for an allocation) is in excess of the vessel use cap, that vessel would be grandfathered with respect to that allocation.

Loan program for crab QS:

A low-interest rate loan program consistent with MSA provisions, for skipper and crew purchases of QS, shall be established for QS purchases by captains and crew members using up to 25% of the Crab IFQ fee program funds collected. These funds can be used to purchase A, B, or C shares.

Loan funds shall be accessible by active participants only.

Any A or B shares purchased under the loan program shall be subject to any use and leasing restrictions applicable to C shares (during the period of the loan).

National Marine Fisheries Service (NOAA Fisheries) is directed to explore options for obtaining seed money for the program in the amount of \$250,000 to be available at commencement of the program to leverage additional loan funds.

Overage provisions for the harvesting sector:

Allowances for overages during last trip: Overages up to 3% will be forfeited. Overages above 3% results in a violation and forfeiture of all overage.

3.4.3 Processing Sector Elements

The program also created processing quota shares (PQS), which are allocated to processors and are analogous to the QS allocated to harvesters. Processor shares shall be considered a privilege and not a property right. PQS are a revocable privilege to receive deliveries of a fixed percentage of the annual TAC from a program fishery.

3.4.3.1 Eligible Processors

Processors (including catcher-processors) eligible to receive an initial allocation of processing quota shares (PQs) are defined as follows:

A U.S. corporation or partnership (not individual facilities) that processed crab during 1998 or 1999, for any crab fishery included in the IFQ program.

Hardship provisions for processors that did not process crab in 1998 or 1999 but meet the following provisions:

1. A processor (not Catcher/Processor) that processed opilio crab in each season between 1988 and 1997 and
2. Invested significant capital in the processing platform after 1995, will be determined to be a qualified processor.
3. Significant capital is defined as a direct investment in processing equipment and processing vessel improvements in excess of \$1 million.

3.4.3.2 Categories of Processing Quota Shares

Crab fishery categories: Processing quota shares shall be issued for the same crab species identified in Section 3.4.2.

Regional categories: Processing quota shares may be categorized into the following regions (see Regionalization Elements for a description of regions):

- Northern Region - All areas on the Bering Sea north of 56° 20' N. latitude
- Southern Region - All areas not in the Northern region
- Western and Eastern regions - Regional categories for deliveries of Aleutian Islands golden king crab are split into a "Western" (west of 174° West longitude) and "Eastern" (east of 174° West longitude) area. Fifty percent of the Western AI IPQ golden king crab QS shall be processed in the Western AI region.

3.4.3.3 Initial Allocation of Processing Quota Shares

- a. Processing quota shares shall be initially issued to Eligible Processors based on three-year average processing history¹⁰ for each fishery, determined by the buyer of record listed on ADF&G fish tickets, as follows:
 - a. 1997 - 1999 for Bristol Bay red king crab
 - b. 1996 - 1998 for Pribilof red and blue king crab,
 - c. 1996 - 1998 for St. Matthew blue crab
 - d. 1997 - 1999 for opilio crab
 - e. Eastern and Western BS bairdi crab based on 50/50 combination of processing history for BBRKC and opilio
 - f. 1996/97 - 1999/00 seasons for golden king crab
 - g. The qualifying years for issuance of IPQ in the Adak red king crab fishery west of 179° West longitude will be based on Western Aleutian Islands golden king crab IPQ
- b. If the buyer can be determined, by NMFS using the State of Alaska Commercial Operators Annual Report, fish tax records, or evidence of direct payment to fishermen, to be an entity other than the entity on the fish ticket, then the IPQ shall be issued to that buyer.

3.4.3.4 Issuance of IPQs Versus Open Delivery

Catcher vessel QS/IFQs are categorized into Class A and Class B shares. Purchases of crab caught with Class A shares would count against IPQs while purchases of crab caught with Class B shares would not. Crab caught with Class B shares may be purchased by any processor on an open delivery basis. Thus, IPQs will be issued for a portion of the season's TAC for each species, with the remainder available to provide open delivery processing as a means to enhance price competition.

⁹ Regional categorization does not apply to Tanner crab, *C. bairdi* fishery. Additionally, in the Western Aleutian Island (Adak) golden king crab fishery, the designation is based on an east/west line to accommodate a different distribution of activity in that fishery.

¹⁰ The three-year average shall be the three-year aggregate pounds purchased by each Eligible Processor in a fishery divided by the three-year aggregate pounds purchased by all Eligible Processors in that fishery.

3.4.3.5 Cap on the Amount of IPQ

The amount of IPQ in any year shall not exceed the percentage of the TAC for crab as follows:

- a. Opilio: IPQ percentage times a TAC (after CDQ allocations) of 175 million pounds.
- b. Bristol Bay red king crab: IPQ percentage times a TAC (after CDQ allocations) of 20 million pounds.

IPQ (that would have been A shares but for the cap) issued in excess of IPQ limit shall be subject to regional landing requirements.

3.4.3.6 Transferability of Processing Shares

Provisions for transferability include the following:

1. Processing quota shares and IPQs would be freely transferable, including leasing. IPQ may be leased (i.e., transferred) after receipt of a delivery to cover any potential overages, provided that the IPQ account of the person conducting the lease has a zero or positive balance by June 30, the end of the crab fishing year.
2. IPQs may be used by any facility of the eligible processor (without transferring or leasing).
3. Processing quota shares and IPQs categorized for one region cannot be transferred to a processor for use in a different region, .

New processors may enter the fishery by purchasing IPQ or by purchasing Class B or Class C Share crab or by processing CDQ crab.

3.4.3.7 PQS Ownership and Use Caps

No ownership to exceed 30% of the total PQS pool on a fishery by fishery basis with initial issues grandfathered. A cutoff date of June 10, 2002 was established for the processor shares ownership cap grandfather provision - The ownership cap on processing shares to prevent persons from acquiring shares in excess of specific caps would be applied as of June 10, 2002. This cutoff date would prevent persons from acquiring interests in processing history in excess of the specified cap after the cutoff date.

PQS ownership caps for non-CDQ group persons should be applied using the individual and collective rule using 10% minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level. PQS ownership caps for CDQ groups should be applied only using the individual and collective rule.

Custom Processing Cap Exemption: Custom processing will be exempt from use caps in the following regions and fisheries:

- North region of the Bering Sea *C. opilio* fishery;
- Western Aleutian Islands golden king crab fishery West designated or Undesignated shares processed in the West region;
- Western Aleutian Islands red king crab fishery;
- Eastern Aleutian Islands golden king crab fishery;
- St. Matthew Island blue king crab fishery;
- Pribilof Islands red and blue king crab fishery;
- Eastern Bering Sea *C. bairdi* fishery; and
- Western Bering Sea *C. bairdi* fishery.

Definition of custom processing exemption: Physical processing of IPQ crab held by a person who is not affiliated with the owner of the facility at which those IPQ crab are processed. IPQ custom processed at a facility owned by an entity does not count toward the cap of the entity (i.e., only processor share holdings count toward an entity's cap).

Locations qualified for the exemption: Custom processing will qualify for the exemption from IPQ use caps, provided that processing is undertaken in the applicable fishery and region at a shore plant, or a

floating processor that is moored at a dock or docking facilities (e.g., dolphins, permanent mooring buoy) in a harbor in a community that is a first or second class city or a home rule city, except for the community of Atka, where a floating processor may anchor at any location, provided that it is within the municipal boundary.

Facility cap: Outside of the West region, no facility may process more than 60 percent of EAI golden king crab and WAI red king crab.

Provisions to protect interests of the community of origin: In the event that processing shares currently or formerly subject to a right of first refusal are transferred from the initial recipient, custom processing of those shares in the community of origin will not be counted toward cap of the processing plant (the shares would only count toward the cap of the share holder).

Northern Region opilio cap: In the Northern Region annual use caps will be at 60% for the opilio crab fishery unless subject to a custom processing cap exemption.

3.4.3.8 Other Processor Provisions

The crab processing caps enacted by Section 211(c)(2)(A) of the AFA would be terminated.

3.4.4 Regionalization Elements

3.4.4.1 'Cool Down' Period

A cooling-off period of 2 years shall be established during which PQS earned in a community may not be used outside that community. The Cool down period is an artifact of the original regionalization elements and is no longer applicable to the rationalization program. Information detailed below is retained to provide historical context.

The following elements were applicable during a cool down period:

- Methods to determine the shares associated with a community were the same method used for allocating processing quota as established by the Council.
- Community shall be defined as the boundaries of the Borough or, if no Borough exists, the first class or second class city, as defined by applicable state statute. A community must have at least 3 percent of the initial PQS allocation in any fishery based on history in the community to require continued use of the IPQs in the community during the cool down period.
- 10% of the IPQs, on a fishery by fishery basis, may leave a community on annual basis, or up to 500,000 pounds, whichever is less. The amount that can leave will be implemented on a pro rata basis to all PQS holders in a community.

3.4.4.2 Regional Delivery Requirements

Most Class A harvesting shares and processing quota share are subject to regional share designations, whereby harvested crab is required to be delivered within an identified region. These delivery restrictions are intended to add stability to the processing sector by protecting processor investment in program fisheries and to preserve the historic distribution of landings and processing between regions.

Assignment of regional delivery requirements:

QS/IFQs for the CV sector may be assigned to regional categories. The following regions are identified:

Northern Region - All areas on the Bering Sea north of 56° 20' N. latitude. (This region includes the Pribilof islands and all other Bering Sea Islands lying to the north. The region also includes all communities on Bristol Bay including Port Heiden but excludes Port Moller and all communities lying westward of Port Moller.)

Southern Region - All areas not in the Northern Region.

Western and Eastern regions - Regional categories for deliveries of Aleutian Islands golden king crab are split into a "Western" (west of 174° West longitude) and "Eastern" (east of 174° West longitude) area. Fifty percent of the Western AI IPQ golden king crab QS shall be processed in the Western AI region.

In the harvesting sector, only Class A CV IFQ are categorized by region (which applies to point of delivery and not point of harvest). In the processing sector, processing of quota shares and IPQs are categorized by region. Once assigned to a region, processing and/or harvesting quota shares cannot be reassigned to a different region.

Categorization will be based on all historical landings. Any remaining mismatch of harvesting and processing shares within the region shall be addressed using the following criteria:

1. The base years for determining processing shares and the base period for determining the share assigned to each region shall be the same.
2. If the cumulative harvester quota associated with each region differs from the total regional share, by species, the harvester share, by species, shall be adjusted, up or down, in the following manner:
 - a. The adjustment shall apply only to harvesters with share in both regions.
 - b. The adjustment shall be made on a pro rata basis to each harvester, so that the total share among those harvesters, by region, equals the total share assigned to each region.
3. The adjustment shall only be on shares that carry a regional designation; Class B and Class C quota would be excluded from the adjustment.

Regionalization of the Western Aleutian Islands golden king crab fishery: The Western Aleutian Islands golden king crab fishery is regionalized by designation of 50 percent of A shares (and corresponding processor shares) as west shares and by the remaining 50 percent of A shares (and corresponding processor shares) being undesignated. Individual processing share allocations would be made with the 50 percent west shares to participants with processing facilities in the west. If the allocations of processors with facilities in the west does not equal 50 percent, the remaining west allocation could be allocated on a pro rated basis to participants without facilities in the west. These remaining west shares could be pro rated so that each shareholder with west facilities would get the same portion of its initial allocation as west shares.

For harvesters of Western Aleutian Islands golden king crab, individual harvesters share allocations would be made with each harvester with west history allocated west shares. If the allocations of vessels with west history exceed 50 percent of the fishery, share allocations would be pro rated so that each shareholder with west history receives the same portion of its allocation as west shares.

Regionalization of the Western Aleutian Islands red king crab fishery: The processor share allocation in the Western Aleutian Islands red king crab fishery would be based on the historical landings in the Western Aleutian Islands golden king crab fishery. No landings in the golden king crab fishery were in the North during the qualifying years. The Western Aleutian Islands red king crab fishery would therefore be entirely South. The South designation will be made despite the landing of a portion of the harvests in the Western Aleutian Islands red king crab fishery in the North region during the qualifying years for vessels.

Regionalization of the Eastern and Western *C. bairdi* crab fishery: There shall be no regional designation of the bairdi fishery shares. The bairdi fishery shall be allocated according to the original distribution of the BBRKC and shall not be subject to the regionalization provisions of the Council CR Program.

Application of Regional Delivery Requirements: The following provisions apply to the delivery and processing of crab with IFQs or IPQs that are categorized by region:

- A. Crab harvested with catcher vessel IFQs categorized for a region must be delivered for processing within the designated region, unless an exemption is approved.
- B. Crab purchased with IPQs categorized for a region must be processed within the designated region, unless an exemption is approved.

Regional delivery exemption for Western AI golden king crab: A Western AI Golden King Crab Regional Delivery Exemption may apply. NMFS will approve a request to exempt West designated IFQ and IPQ from the requirement to deliver and process WAG west of 174° W. longitude for a crab season, if all Eligible Contract Signatories request the exemption in writing for that season. Eligible Contract Signatories are —

- a. QS holders: Any person that holds in excess of 20 percent of the West designated Western AI golden king crab QS at the time the contract was signed, or their authorized representative.
- b. PQS holders: Any person that holds in excess of 20 percent of the West designated Western AI golden king crab PQS at the time the contract was signed, or their authorized representative.
- c. Municipalities: the City of Adak and the City of Atka, or their authorized representatives.

Regional Delivery Exemption for North or South designations: IFQ holders, IPQ holders, and affected community representatives may apply to NMFS for an exemption from the requirements that crab harvested with regionally designated IFQ be delivered and processed in the designated region. An exemption could be granted for regionally designated IFQ and IPQ in the following fisheries: Bristol Bay red king crab, Bering Sea *C. opilio*, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, Saint Matthew Island blue king crab, and Pribilof Islands red and blue king crab.

If IFQ holders and IPQ holders wish to request an exemption to regional delivery requirements, they must work with the affected community representatives to establish a framework agreement and submit an application to NMFS before the start of a crab fishing season. The framework agreement would define the steps that the parties would take to avoid seeking an exemption during the fishery, the circumstances under which the parties would apply for an exemption, the actions the parties would take to mitigate the effects of the exemption, and the compensation, if any, that any party would provide to any other party.

In the event that circumstances occur that prevent deliveries of regionally designated IFQ, then the IFQ holders, IPQ holders, and affected community representatives would enter into an exemption contract and apply to NMFS for an exemption. The application must specify the amount of IFQ and IPQ that are subject to the exemption. The exemption would be effective the day after NMFS receives the application.

3.4.4.3 Community Purchase and Right of First Refusal (ROFR)

The CR Program provides CDQ groups or community groups representing qualified communities a right of first refusal (ROFR) to purchase processing shares that are based on history from the community which are being proposed to be sold for processing outside the boundaries of the community of original processing history. Qualified communities are those with at least three percent of the initial PQS allocation in any BSAI crab fishery based on history of processing in the community, except for those communities that receive a direct allocation of any crab species (currently only Adak). The terms and application of ROFR are in accordance with the provisions below.

Entity Granted the ROFR: The ROFR shall be established by a contract entered into prior to the initial allocation of PQS which will contain all of the terms specified by Amendments 18 and 19 to the FMP. The contract will be between the recipient of the initial allocation of the PQS and:

1. the CDQ group in CDQ communities
2. the entity identified by the community in non-CDQ communities.

In non-CDQ communities, the community must designate the entity that will represent the community at least 90 days prior to the deadline for submission of applications for initial allocations of PQS.

Beginning on January 12, 2016, all ROFR contracts must contain all of the following terms:

Right of First Refusal Contract Terms:

- A. The ROFR) will apply to sales of the following processing shares:
 - 1. PQS and
 - 2. IPQs, if more than 20 percent of a PQS holder's community based IPQs (on a fishery by fishery basis) have been processed outside the community currently associated with the right by another company in 3 of the preceding 5 years.
- B. All terms of any ROFR and contract entered into related to the ROFR will be enforced through civil contract law
- C. Any ROFR contract must be on the same terms and conditions of the underlying agreement and will include all processing shares and other goods included in that agreement, or to any subset of those assets, as otherwise agreed to by the PQS holder and the community entity.
- D. Intra-company transfers within a region are exempt from ROFR. To be exempt from the ROFR, IPQs must be used by the same company.
- E. Any sale of PQS for continued use in the community with which the PQS is associated will be exempt from the ROFR. A sale will be considered to be for use in the community associated with the PQS if the purchaser contracts with the community to:
 - 1. use at least 80 percent of the annual IPQ allocation in the community for 2 of the following 5 years (on a fishery by fishery basis), and
 - 2. grant the community a ROFR on the PQS subject to the same terms and conditions required of the processor selling the PQS.
- F. A community group or CDQ group can waive any ROFR.
- G. The ROFR will be exercised by the CDQ group or community group by providing the seller within 90 days of receipt of a copy of the contract for sale of the processing shares:
 - 1. notice of the intent to exercise and
 - 2. earnest money in the amount of 10 percent of the contract amount or \$500,000, whichever is less.The CDQ group or community group must perform under the terms of the ROFR contract within the longer of:
 - 1. 150 days of receipt of the sales contract or
 - 2. in the time specified in the sales contract.
- H. If a ROFR is triggered by a sale subject to the right and the CDQ group or community group associated with the ROFR does not exercise its right, a new ROFR contract between the buyer and the CDQ group or community group named by the buyer must be signed at the time of transfer. The buyer can name as the new right holder either the CDQ group or community group previously associated with the right or a new CDQ group or community group. The CDQ group or community group named by the buyer to receive the new ROFR must be an existing CDQ group or community group that was eligible to hold a ROFR at the time of the implementation of the CR Program in the region in which the IPQ must be landed.
- I. Any due diligence review conducted related to the exercise of a ROFR will be undertaken by a third party bound by a confidentiality agreement that protects any proprietary information from being released or made public.

- J. The PQS or IPQ holder must notify the CDQ group or community group that holds the ROFR of the transfer of IPQ or PQS that are subject to the right. A PQS/IPQ holder must provide this notice to the right-holding CDQ group or community group for all transfers of PQS or IPQ subject to a ROFR regardless of whether the PQS/IPQ holder believes the right applies to the transfer.
- K. Annually, the PQS holder must provide the CDQ group or community group that holds the ROFR with the location of the use of IPQ that are subject to the ROFR, and whether the IPQ subject to the ROFR were used by the PQS holder.

GOA First Right of Refusal: For communities with at least three percent of the initial PQS allocation of any BSAI crab fishery based on history in the community that are in the area on the Gulf of Alaska north of 56°20'N latitude, groups representing qualified communities will have a first right of refusal to purchase processing quota shares which are being proposed to be transferred from unqualified communities in the identified Gulf of Alaska area. The entity granted the right of first refusal and terms and method of establishing the right of first refusal will be the same as specified in the general right of first refusal.

Community Purchase Option: Allow for a community organization in those communities that have at least 3 percent of the initial PQS allocation of any BSAI crab fishery based on history in the community to be exempted from the restriction for the 150 days of sea time requirement.

Identification of Community Groups and Oversight: For CDQ communities, CDQ groups would be the entity eligible to exercise any right of first refusal or purchase shares on behalf of the community. Ownership and management of harvest and processing shares by CDQ groups will be subject to CDQ regulations.

For non-CDQ communities, the entity eligible to exercise the right of first refusal or purchase shares on behalf of a community will be identified by the qualified city or borough, except if a qualified city is in a borough, in which case the qualified city and borough must agree on the entity. Ownership and management of harvest and processing shares by community entities in non-CDQ communities will be subject to rules established by the halibut and sablefish community purchase program.

Right of First Refusal is Non-assignable: The community right of first refusal is not assignable by the community group granted the right.

Fisheries Exempt from the Community Right of First Refusal: The *C. bairdi* Western Aleutian golden king crab and Adak red king crab fisheries are exempt from the right of first refusal.

3.4.5 Binding Arbitration System

The arbitration system serves several important purposes in the program, including dissemination of market information to facilitate negotiations, the coordination of matching Class A IFQ held by harvesters to IPQ held by processors, and a binding arbitration process to resolve terms of delivery.

3.4.5.1 Elements of Binding Arbitration

The Council adopts the following elements for a system of binding arbitration to resolve failed price negotiations.

1. The Standard for Arbitration

The primary role of the arbitrator shall be to establish a price that preserves the historical division of revenues in the fisheries while considering relevant factors including the following:

- a. Current ex vessel prices (including prices for Class A, Class B, and Class C shares recognizing the different nature of the different share classes)

- b. Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing)
- c. Innovations and developments of the different sectors and the participants in the arbitration (including new product forms)
- d. Efficiency and productivity of the different sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure)
- e. Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings)
- f. The interest of maintaining financially healthy and stable harvesting and processing sectors
- g. Safety
- h. Timing and location of deliveries
- i. Reasonable underages to avoid penalties for overharvesting quota and reasonable deadloss

2. Market Report

An independent market analyst selected by the mutual agreement of the sectors will present to both sectors and all designated arbitrators an analysis of the market for products of that fishery. The Market Report is based on a survey of the market for crab products produced by the fishery and shall include only publicly available data and information.

A Market Report is not required for a crab fishery if that crab fishery is not open for fishing. QS and PQS holders must establish a contract with the Market Analyst to produce a Market Report in the event that a crab fishery that was not anticipated to open does subsequently open for fishing.

QS and PQS holders can choose to mutually agree to the timing of the Market Report and any subsequent interim or supplemental reports. The market analyst can issue interim or supplemental reports for each fishery if the QS and PQS holders mutually agree to those terms.

3. Selection of the Arbitrator(s) and Market Analyst

The market analyst and arbitrator(s) will be selected by mutual agreement of the PQS holders and the QS holders. PQS holders collectively must agree and QS holders collectively must agree. Processors may participate collectively in the selection process. The details of the selection will be decided at a later time.

4. Shares subject to binding arbitration

This binding arbitration system shall address price disputes between holders of delivery restricted IFQ (including Class A IFQ and Class C IFQ when subject to delivery restrictions) and holders of IPQ. Binding arbitration does not apply to the negotiation of price for deliveries under the class B IFQ and Class C IFQ when not subject to delivery restrictions. C share holders, however, may elect to participate in the arbitration process prior to delivery restrictions taking effect.

5. Shares of processor affiliates

Participation of processor affiliates in binding arbitration as IFQ holders will be determined by any applicable rules governing anti-trust. Any parties eligible for collective bargaining under the Fishermen's Cooperative Marketing Act of 1934 (FCMA) will be eligible to participate collectively as a member of that FCMA co-op in binding arbitration. No antitrust exemption should be made to enable processor affiliated IFQ holders to participate in arbitration.

6. Payment of the arbitration and market analysis

The payment for the market analysis and the arbitrators will be shared by the two sectors. Cost shall be shared by all participants in all fisheries.

For shared costs, the payment of those costs shall be advanced by IPQ holders. The IPQ holders will collect the IFQ holders' portion of the shared costs by adding a pro rated surcharge to all deliveries of Class A crab.

7. Quality dispute resolution

In cases where the fisherman and the processor cannot come to agreement on quality and thus price for crab, two mechanisms are suggested for resolving the price dispute-after the processor has processed the crab (to avoid waste from dumping the load at sea): (1) In cases where fishermen and processors have agreed to a formula based price, the two parties would take their normal shares of the price, after the disputed load is sold. (2) This type of dispute would most likely apply in cases where fishermen desire to stay with fixed dockside prices and there is disagreement on quality and therefore price. These cases could be referred to an independent quality specialist firm. The two parties in dispute would decide which firm to hire.

8. Data used in arbitration

Under any arbitration structure, the arbitrator must have access to comprehensive product information from the fishery (including first wholesale prices and any information necessary to verify those prices).

Subject to limitations of antitrust laws and the need for proprietary confidentiality, all parties to an arbitration shall have access only to information provided to the arbitrator(s) or panel for that arbitration directly by the parties to that arbitration. Access to information by a harvester participating in an arbitration will be limited to information submitted by itself and the processor. All participants to an arbitration shall sign a confidentiality agreement stating they will not disclose any information received from the arbitrator.

Data collected in the data collection program may be used to verify the accuracy of data provided to the arbitrator(s) in an arbitration proceeding. Any data verification will be undertaken only if the confidentiality protections of the data collection program will not be compromised.

9. Enforcement of the Arbitration Decision

The decision of the arbitrator will be enforced by civil damages.

10. Oversight and administration of the Binding Arbitration system.

Oversight and administration of the binding arbitration should be conducted in a manner similar to the AFA cooperative administration and oversight. System reporting requirements and administrative rules should be developed in conjunction with the Council and NOAA Fisheries after selection of the preferred program.

The structure for the system of Binding Arbitration system shall be as described below:

3.4.5.2 Last best offer binding arbitration

The Last Best Offer Model provides a mechanism to resolve failed price and delivery negotiations efficiently in a short period before the opening of the season. The Model includes the following specific characteristics:

1. Processor-by-processor. Processors will participate individually and not collectively, except in the choice of the market analyst and the arbitrator/arbitration panel.
2. Processor-affiliated shares. Participation of processor-affiliated shares will be limited by the current rules governing antitrust matters.
3. Arbitration standard. The standard for the arbitrator is the historic division of revenues between harvesters and processors in the aggregate (across the entire sectors), based on arm's-length first

wholesale prices and ex-vessel prices (Option 4 under “Standard for Arbitration” in the staff analysis). The arbitrator shall consider several factors including those specified in the staff analysis, such as current ex vessel prices for both A, B and C Shares, innovations, efficiency, safety, delivery location and timing, etc.

4. Opt-in. An IFQ holder may opt in to any contract resulting from a completed arbitration for an IPQ holder with available IPQ by giving notice to the IPQ holder of the intent to opt in, specifying the amount of IFQ shares involved, and acceptance of all terms of the contract. Once exercised, an Opt-in is binding on both the IPQ holder and the IFQ holder.
5. Performance Disputes. Performance and enforcement disputes (e.g., quality, delivery time, etc.) initially will be settled through normal commercial contract dispute remedies. If those procedures are unsuccessful, the dispute will be submitted for arbitration before the arbitrator(s). If those procedures are unsuccessful and in cases where time is of the essence, the dispute will be submitted for arbitration before the arbitrator(s). The costs of arbitration shall be paid from the fees collected, although the arbitrator(s) will have the right to assign fees to any party for frivolous or strategic complaints.
6. Lengthy Season Approach. For a lengthy season, an IPQ holder and an IFQ holder (or group of IFQ holders) may agree to revise the entire time schedule below and could agree to arbitration(s) during the season. That approach may also be arbitrated pre-season if the holders cannot agree.

3.4.5.3 Process

1. Negotiations and Voluntary Share Matching

At any time prior to the season opening date, any IFQ holders may negotiate with any IPQ holder on price and delivery terms for that season (price/price formula; time of delivery; place of delivery, etc.). If agreement is reached, a binding contract will result for those IFQ and IPQ shares. IPQ holders will always act individually and never collectively, except in the choice of the market analyst (which may occur at any time pre-season) and the arbitrator/arbitration panel for which all IFQ and IPQ holders will consult and agree.

2. Required Share-Matching and Arbitration

Beginning 5 days after the issuance of IFQ and IPQ by NMFS, IFQ holders may match up IFQ shares not already subject to contracts with any IPQ shares not under contract, either collectively as part of an FCMA cooperative or as individual IFQ holders (the offered IFQ shares must be a substantial amount of the IFQ holder(s)' uncontracted shares). The IPQ holder must accept all proposed matches up to its non-contracted IPQ share amount. All IFQ holders “matched” with an IPQ holder will jointly choose an arbitrator with that IPQ holder. The matched share holders are committed to the arbitration once the arbitrator is chosen (if the parties wish, the arbitrator may initially act as a mediator to reach an agreement quickly). Arbitration must begin no later than 15 days after the issuance of IFQ and IPQ by NMFS.

3. Data

The Arbitrator will gather relevant data independently and from the parties to determine the historical distribution of first wholesale crab product revenues (at Free on Board point of production in Alaska) between harvesters and processors in the aggregate (across the entire sectors). For a vertically integrated IPQ holder (and in other situations in which a back-calculation is needed), the arbitrator will work with that IPQ holder and the IFQ holders to determine a method for back-calculating an accurate first wholesale price for that processor. The Arbitrator will receive a pre-season market report from the market analyst and may gather additional data on the market and on completed arbitrations. The Arbitrator will also receive and

consider all data submitted by the IFQ holders and the IPQ holder. The Arbitrator will not have subpoena power.

4. Arbitration Decisions

Arbitration will be based on a “last best offer” system, with the Arbitrator choosing one of the last best offers made by the parties. The Arbitrator will work with the IPQ and IFQ holders to determine the matters that must be included in the offer (e.g. price, delivery time & place, etc.) and will set the date on which “last best offers” must be submitted. The last best offers may also include a price over a specified time period, a method for smoothing prices over a season, and an advance price paid at the time of delivery.

If several groups or individual IFQ Holders have “matched” with that IPQ holder, each of them may make a last best offer. Prior to submission of the last-best offers, the Arbitrator may meet with parties, schedule joint meetings, or take any actions aimed at reaching agreement. The Arbitrator will notify the IPQ holder and the IFQ holders of the Arbitration Decision no later than 10 days before the season opening date. The Arbitration Decision may be on a formula or ex-vessel price basis. The Arbitration Decision will result in a contract for the IPQ holder and the IFQ holders who participated in arbitration with that IPQ holder.

5. Post-Arbitration Opt-In

Any IFQ holder with shares not under contract may opt in to any contract resulting from an Arbitration Decision for an IPQ holder with IPQ that is not under contract, on all of the same contract conditions (price, time of delivery, etc.). If there is a dispute regarding whether the “opt in” offer is consistent with the contract, that dispute may be decided by the arbitrator who will decide only whether the Opt-in is consistent with the contract.

6. Non-Binding Price Arbitration

There will be a single annual fleet-wide arbitration to establish a non-binding formula under which a fraction of the weighted average first wholesale prices for the crab products from each fishery may be used to set an ex-vessel price. The formula is to be based on the historical distribution of first wholesale revenues between fishermen and processors, taking into consideration the size of the harvest in each year. The formula shall also include identification of various factors such as product form, delivery time and delivery location. The non-binding arbitration shall be based upon the Standard for Arbitration set out in the February 2003 Council motion, and stated under the elements of binding arbitration. As a part of this process, the arbitrator will review all of the arbitration decisions for the previous season and select the highest arbitrated prices for a minimum of at least 7% of the market share of the PQS. This provision allows for the aggregation of up to 3 arbitration findings that collectively equal a minimum of 7 percent of the PQS, to be considered for the highest price for purposes of this provision. If arbitration findings are aggregated with two or more entities, then the lesser of the arbitrated prices of the aggregated entities included to attain the 7 percent minimum market share of PQS shall be considered for purposes of developing the benchmark price. The arbitrator in the non-binding arbitration shall not be an arbitrator in the last best offer binding arbitration(s). This formula shall inform price negotiations between the parties, as well as the Last Best Offer arbitration in the event of failed price negotiations.

A Non-Binding Price Formula is not required for a crab fishery if that crab fishery is not open for fishing. PQS and QS holders must establish a contract with the Formula Arbitrator to produce a Non-Binding Price Formula in the event that a crab fishery that was not anticipated to open does subsequently open for fishing. IFQ and IPQ holders can choose to mutually agree to the timing of the Non-Binding Price Formula.

7. Public Disclosure of Arbitration Results

The result of each arbitration will be announced as it occurs to the processors and harvesters in that arbitration and non-vertically integrated harvesters that have not committed to a processor.

Other Procedures, Policies, and Decisions.

IFQ and IPQ holders, Market Analyst(s), Formula Arbitrator(s), Contract Arbitrator(s), and the Third-party Data Provider may establish procedures, policies, and make administrative decisions concerning the administration of the arbitration system as described in this section, provided those procedures, policies, and administrative decisions are not otherwise inconsistent with any other requirement contained in the arbitration system.

3.4.6 Cooperatives

The program allows harvesters to form voluntary cooperatives associated with one or more processors holding PQS. Cooperatives may be formed through contractual agreements among fishermen who wish to join into a cooperative associated with one or more processors holding processor history for one or more species of crab. Fleet consolidation within this cooperative may occur either by internal history leasing and vessel retirement or by history trading within the original cooperative or to a different cooperative. A cooperative agreement would be filed annually with the Secretary of Commerce, after review by the Council, before a cooperative's catch history would be set aside for their exclusive use.

The cooperative model elements are detailed below:

- Exemption from use caps: Cooperative members would not be subject to either the individual or vessel use caps, which would apply to IFQ holders that are not cooperative members.
- Application of ownership caps: To effectively limit ownership, the number of shares (IFQs and QS) that each cooperative member could bring to a cooperative would be subject to the ownership caps (with initial allocations grandfathered).
- IFQ allocations to cooperatives: The annual allocations of IFQs of cooperative members would be made to the cooperative, with use of those shares governed by the cooperative agreement.
- Leasing: Leasing among cooperative members would be unlimited. For IFQ holders that are not cooperative members, leasing would be allowed for the first 5 years of the program.
- Inter-cooperative transfers: Transfers between cooperatives would be undertaken by the members individually, subject to ownership caps. Requiring the inter-cooperative transfers to occur through members is necessary for the application of the ownership caps.
- Four entities are required for a cooperative: The requirement for four owners to create a cooperative would require four unique entities to form a cooperative. Independent entities must be less than 10 percent common ownership without common control (similar to the AFA common ownership standard used to implement ownership caps). Vessels are not restricted to deliver to a particular plant or processing company.
- Monitoring and enforcement at the cooperative level: The monitoring and enforcement of harvest allocations would be at the cooperative level (rather than the individual level). Cooperative members would be jointly and severally liable for the actions of the cooperative.
- Duration of Cooperative agreements: A harvester quota shareholder may exit the cooperative at any time after one season. One season shall mean the season established by the Alaska Board of Fisheries for the fishery associated with the quota shares held by the harvester. New processors entering the fishery may associate with cooperatives.

3.4.7 Community Development Quota and Adak Allocations

The CR Program made changes in the BSAI crab allocations under the Community Development Quota (CDQ) program. The changes included the following modifications:

CDQ Program Allocation: Expand existing program to all crab fisheries approved under the rationalization program with the exception of the Western AI golden king crab. Increase the CDQ Program allocation for all species of crab to 10% of the TAC. These changes in the CDQ allocations are intended to further facilitate fishing activity and economic development in rural Western Alaska communities.

Norton Sound red king crab: The increase of CDQ allocations does not apply to the Norton Sound red king crab fishery. The Norton Sound fishery was excluded from the CDQ allocation increase because it is currently regulated under a super exclusive permit program that prohibits its participants from participating in any of the other BSAI crab fisheries. The Norton Sound permit rules are for the benefit local, small vessel participants in that fishery.

Onshore delivery: A minimum of 25% of the total CDQ allocation must be delivered on shore.

Adak Allocation: For the Western Aleutian Islands golden king crab fishery, the percentage of resource not utilized (i.e., the difference between the actual catch and GHLL, up to 10%) during the base period is allocated to the community of Adak. In any year that sufficient processing exists at that location, the percentage of the difference between the GHLL and actual catch, that was not harvested in these 4 years is not to exceed 10%.

Criteria for Selection of Community Entity to Receive Shares: A non-profit entity representing the community of Adak, with a board of directors elected by the community (residents of Adak) in a manner similar to the CDQ program. The shares given to this entity may be held in trust in the interim by the Aleut Enterprise Corporation and administered by it.

A set of use procedures, investment policies and procedures, auditing procedures, and a city or state oversight mechanism will be developed. Funds collected under the allocation will be placed in a separate trust until the above procedures and a plan for utilizing the funds for fisheries related purposes are fully developed. Funds will be held in trust for a maximum of 2 years, after which the Council will reassess the allocation for further action.

Performance standards for management of the allocation to facilitate oversight of the allocation and assess whether it achieves the goals. Use CDQ type management and oversight to provide assurance that the Council's goals are met. Continued receipt of the allocation will be contingent upon an implementation review conducted by the State of Alaska to ensure that the benefits derived from the allocation accrue to the community and achieve the goals of the fisheries development plan.

3.4.8 Observer Requirements

Observer requirements will be deferred to the Alaska Board of Fisheries.

3.4.9 Sideboards

AFA vessel sideboards: Eliminate harvester sideboard caps.

Non-AFA vessel sideboards: Non-AFA vessels that qualify for QS in the rationalized opilio crab fisheries would be limited to their GOA groundfish catch history excluding sablefish. The sideboards would be based on the history of vessels subject to the caps, applied in aggregate, on an area specific basis, and apply jointly to both the vessel and the license.

Vessels with less than 750,000 lbs total opilio history during the qualifying years and more than 680MT of total cod history during the qualifying years would be exempt from the GOA Pacific cod sideboard cap.

Vessels with less than 50MT total groundfish landings in the qualifying period would be prohibited from participating in the GOA Pacific cod fishery.

Vessels with less than 0.22% of total Bering Sea opilio catch history from 1996 through 2000 and 20 or more deliveries of pollock harvested in the GOA from 1996 through 2000 would be exempt from the GOA pollock sideboard cap. The percent is of the total Bering Sea C. opilio catch history, including both qualified and unqualified catch history from non-AFA crab vessels.

NMFS will remove non-AFA Pacific cod sideboard limits for hook-and-line catcher/processors in the Central GOA, Western GOA, or both if all eligible participants in a regulatory area sign an affidavit requesting that NMFS remove the sideboard limit. The eligible participants are the holders of LLP licenses with hook-and-line, catcher/processor, and Pacific cod endorsements and do not include owners and operators of sideboarded vessels that do not meet these LLP license requirements. All eligible participants must submit to NMFS, and NMFS must receive, a completed affidavit by May 19, 2016. If the required participants do not agree to the sideboard removal by that deadline, the CR Program GOA sideboard limits will remain in effect and will not be removed.

Sideboards will expire on rationalization of the Gulf of Alaska.

3.4.10 Economic Data Collection Program

The CR Program includes a mandatory economic data collection program that requires owners or leaseholders of catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors, as well as PQS holders that purchase crab deliveries in the BSAI crab fisheries to submit an economic data report (EDR) on an annual basis. The purpose of the EDR is to collect cost, revenue, ownership, and employment data to provide the Council and NMFS with the information necessary to study the impacts of the CR Program. Participation is mandatory.

Purpose: This data collection effort is required to address the Council’s original problem statement for the CR Program. That problem statement requires a structure that achieves “equity between the harvesting and processing sectors” and “...economic stability for harvesters, processors and coastal communities.” The Council revised the data collection program in 2012 and 2021 to improve the quality of data collected and eliminate redundancies with other collections of data. The data collected is intended to aid the Council and NMFS in assessing the efficacy of the CR Program and to determine its relative impact on fishery participants and communities.

Administration of Collection: The EDR is administered by NMFS through contracts with Pacific States Marine Fisheries Commission (PSMFC), an independent third-party data collection agent. Each owner or leaseholder of the BSAI crab fishing industry must fill out the appropriate EDR form annually. The data collected is specific to the crab fisheries in the CR Program and includes information on costs of fishing and processing, revenues for harvesters and processors, and employment data.

Use of data: Data will be supplied to NMFS, Council staff, and any other authorized users according to statutory and regulatory data confidentiality requirements. The collected data may assist with the development of amendments to the CR Program, through program reviews or could be used to analyze the economic and social impacts on industry, regions, and localities. EDR data are also used extensively in preparation of the annual Crab SAFE Economic Status Report, which is submitted to the Council annually.

Verification of Data: The third-party data collection agent will verify the data in a manner that assures accuracy of the information supplied by private parties. The data collection agent may review and request for the owner or leaseholder to provide copies of additional data.

Duration: The data collection program will continue through the life of the CR Program.

Failure to Submit Forms: Participation in the data collection program is mandatory. Should a submitter fail to submit the appropriate EDR to PSMFC by the deadline, the infraction will be referred to the Office of Law Enforcement.

Enforcement of Data Requirements: The Council endorses the approach to enforcing the data requirements developed by the staff and the Data Collection Committee, which determined that because it is unlikely that the economic data will be used for in-season management, it is anticipated that persons submitting the data will have an opportunity to correct omissions and errors¹¹ before any enforcement action would be taken. Giving the person submitting data a chance to correct problems is considered important because of the complexities associated with generating these data. Only if the agency and the person submitting the data cannot reach a solution would the NMFS Office of Law Enforcement be contacted. The intent of this program is to ensure that accurate data are collected without being overly burdensome on industry for unintended errors.

3.4.11 Federal Cost Recovery

Cost recovery funds are to be collected in accordance with the current cost recovery program, which allows for the collection of actual costs up to 3 percent of ex vessel gross revenues. The Council provided that costs would be paid in equal shares by the harvesting and processing sectors (on all landings including landings of crab harvested with Class B IFQs). CPs would pay the entire 3 percent since CPs participate in both sectors. A loan program for share purchases would be established with up to 25 percent of the fees collected. The motion authorized the collection of up to 133 percent of actual costs of management under the new program, which would provide for 100 percent of management costs after allocation of up to 25 percent of the cost recovery to the loan program. NMFS will assign no more than the minimum amount of fees required to aid in loan financing. No fees would be assigned for loan financing unless required.

3.5 Category 2 Framework Management Measures

3.5.1 District, Subdistrict, and Section Boundaries

The FMP authorizes the State to adjust district, subdistrict, and section boundaries on the basis of any of the following criteria: (1) if the area contains a reasonably distinct stock of crab that requires a separate GHL estimate to avoid possible overharvest, (2) if the stock requires a different size limit from other stocks in the registration area, (3) if different timing of molting and breeding requires a different fishing season, (4) if estimates of fishing effort are needed pre-season so that overharvest can be prevented, or (5) if part of an area is relatively unutilized and unexplored, and if creation of a new district, subdistrict, or section will encourage exploration and utilization.

3.5.2 Total Allowable Catch and Guideline Harvest Level

The FMP authorizes the State to set pre-season TACs and GHGs under State regulations. Seasons or areas are closed when the TAC or GHG is reached. TACs are set for the crab fisheries under the CR Program: *C. opilio*, *C. bairdi*, Bristol Bay red king crab, St. Matthews blue king crab, Pribilof Islands red and blue king crab, Aleutian Islands golden king crab, and Western Aleutian Islands red king crab. GHLs are set for the remaining crab fisheries: Pribilof Islands golden king crab and Norton Sound red king crab. ADF&G may close a fishery with a ~~TAC~~ GHL before or after the ~~TAC~~/GHL is achieved based on current in-season information (Section 3.5.8). TACs and GHLs for each fishery will be reported in the Council's annual Stock Assessment and Fishery Evaluation (SAFE) Report, along with the OFLs and ABC/ACLs.

¹¹ The intent of the program is to have enforcement actions only triggered by the willful and intentional submission of incorrect data or noncompliance with the requirements to submit data.

The State will take into account the following factors, to the extent information is available, in developing harvest strategies or setting TACs and GHLS: (1) whether the ACL for that stock was exceeded in the previous year; (2) stock status relative to the OFL and ACL; (3) estimates of exploitable biomass; (4) estimates of recruitment; (5) estimates of thresholds; (6) market and other economic considerations; (7) additional uncertainty; and (8) any additional factors pertaining to the health and status of the stock or the marine ecosystem. Additional uncertainty includes (1) management uncertainty (i.e., uncertainty in the ability of managers to constrain catch so the ACL is not exceeded, and uncertainty in quantifying the true catch amount) and (2) scientific uncertainty identified and not already accounted for in the ABC (i.e., uncertainty in bycatch mortality, estimates of trends and absolute estimates of size composition, shell-condition, molt status, reproductive condition, spatial distribution, bycatch of non-target crab stocks, environmental conditions, fishery performance, fleet behavior, and the quality and amount of data available for these variables).

The State will establish the annual TAC or GHLS for each crab stock at a level sufficiently below the ACL so that the sum of the catch¹² and the State's assessment of additional uncertainty do not exceed the ACL. The State may establish the annual TACs below such a level to account for the other factors identified above. If an ACL is exceeded, the State will implement accountability measures in the fishing season following the overage to account for the overage through a downward adjustment to the TAC or GHLS for that species by an amount sufficient to remedy the biological consequences of the overage.

3.5.3 Registration Areas

This FMP adopts existing State registration areas within the BSAI fishery management unit. The management unit historically has been divided by the State into four king crab registration areas: Bering Sea, Bristol Bay, Adak, and Dutch Harbor and one Tanner crab registration area Westward. Kodiak, South Peninsula and Chignik are also part of the State's Westward registration area but not part of the management unit in this FMP.

Registration areas may be further divided into fishing districts, subdistricts, and sections for purposes of management and reporting, although Tanner crab districts and subdistricts correspond most closely to king crab registration areas in regards to size (see Appendix E). Registration areas are characterized by relatively homogeneous established fisheries on stocks of crab that have insignificant transfer of adults between areas. These stocks tend to be fished by the same general class of boats from year to year, with seasons varying somewhat from area to area because of natural causes such as differences in timing of molting and breeding. Geographic remoteness from processing plants and support facilities may further characterize some areas. State regulations require vessels to register for fishing in these areas, and may require vessels to register for specific fishing districts within a registration area. Registration requirements allow estimation of fishing effort and the rate at which the resource will be harvested.

King crab registration areas within the management unit are designated as either exclusive or nonexclusive. Vessels can register for any one exclusive area and are not restricted in their choice, but cannot fish in any other exclusive area during the registration year. They can, however, fish any or all other nonexclusive areas. Fishermen often consider potential harvest, proposed prices, and distances between the fishing grounds and processing facilities when making their selection of an exclusive area. Historically, on a statewide basis exclusive registration areas are relatively small with the exception of Bristol Bay, contain known concentrations of crab, are adjacent to shore, and have well developed fisheries. Nonexclusive registration areas are usually quite large, have developing fisheries, and may

¹² As used here, the term "catch" refers to all sources of fishing mortality included in the ACL for a given stock. Thus, for a stock with a total catch ACL, "catch" includes each of the three catch components (non-directed fishery discard losses, directed fishery removals, and directed fishery discard losses). For a stock with a retained catch ACL, "catch" includes only the directed fishery removals.

contain some sections that are both underutilized and unexplored. The Norton Sound registration area has been designated as a superexclusive area by Federal law.

The use of exclusive area designations can aid in dispersing fishing effort while still allowing the majority of the fleet the opportunity to harvest the majority of the crab. Exclusive registration areas can help provide economic stability to coastal communities or to segments of the industry dependent on an individual registration area's crab stocks, particularly if the character of the fishing fleet and the related industry participants depending upon the registration area's potential production would not allow movement to another registration area. This is particularly advantageous to the less mobile vessels if the area in which they fish is not the most profitable area for the more mobile vessels. This will not necessarily provide greater stability for the less mobile vessels because as fishery conditions change from year to year, the mobile vessels can change the area(s) in which they fish. However, on the average, fewer mobile vessels will fish in the less profitable areas if fishing in multiple areas is restricted. The removal of exclusive area regulations could place extreme economic pressure on smaller or older vessels unable to respond with fishing mobility (Katz and Bledsoe 1977).

Although exclusive registration areas can reallocate catch among different size vessels, it is not always clear which way the allocation effects will go and, therefore, each situation must be studied carefully (Larson, 1984). The specification of registration area, both exclusive and nonexclusive, may be important to attainment of the economic and social objectives of this FMP.

Any designation of an area or district as exclusive must be supported by a written finding by the State that considers all of the following factors to the extent information is available:

1. The extent to which the designation will facilitate proper management of the fishery,
2. The extent to which such designation will help provide vessels with a reasonable opportunity to participate in the fishery,
3. The extent to which such designation will help to avoid sudden economic dislocation. Established processing facilities and fishing fleets within a registration area may provide economic stability for the labor force and affected communities and may be destroyed or adversely affected by an in-season influx of mobile processing plants and additional fishing power,
4. The extent to which the designation will encourage efficient use of vessels and gear,
5. The extent to which the economic benefits conferred by the designation will be offset by economic costs and inefficiencies, and
6. The extent to which other management measures could yield the results desired from the designation.

The following are examples of situations in which the designation or maintenance of the exclusive registration area might be appropriate:

1. The existence of differences in seasons between registration areas that could promote peak harvest rates only at the beginning of each season. Vessels capable of moving rapidly between areas could fish the season opening of more than one area, thereby creating an adverse impact on the vessels that planned on or were capable of fishing just one area for the entire season.
2. The occurrence of ex vessel price settlements at different times in different registration areas, causing concentration of fishing and processing effort in registration areas that have completed price settlements.
3. Historic profitable utilization of the crab resource of an area by a fleet that could not be used to fish in more distant areas, and by processors heavily dependent for their supplies of crab upon the activities of that fleet.

4. Crab populations that vary in availability or on a seasonal basis may trigger effort shifts between registration areas to maximize the economic returns for a single segment of the overall fishing and processing effort. This provides a significant advantage for mobile processing units and larger vessels capable of operating in a wide range of sea conditions, but which may not in any particular area be as efficient as the less mobile harvesting and processing units that they displace.
5. The crab fishing fleet has experienced rapid growth and advanced in fishing efficiency. There is, therefore, an increasing potential for overharvest of a particular stock, especially during normal fluctuations in crab populations. Situations may exist where, in the absence of limitations, the number of vessels registering for an area or district may possess a one-trip cargo capacity that exceeds the amount of crab that can be safely taken from that area. The absence of flexibility to modify registration areas in this instance could result in either no fishing or in an overharvest.
6. Registration areas historically fished by small vessels require a longer period of fishing time to harvest crab resources because they cannot fish in bad weather and have limited carrying capacity. Relatively low production levels of inshore fishing grounds combined with inshore migration of king crab stocks over a very long season provide the smaller vessels opportunity to maximize their production capabilities. Larger vessels designed primarily for areas of greater fishing power can adversely affect the economics of established fleets, processing facilities, labor forces, and community dependence on production from the local resource, while failing to maximize utilization of smaller crab stocks.
7. Since fleet capabilities have developed in response to demands within registration areas, they may vary significantly with regard to the volume of fishing gear (pot units) used, the ability to transport quantities of pot gear, and the severity of the weather in which they can fish. These factors and others can place a fleet comprised of mostly small vessels at a distinct disadvantage.
8. Some registration areas contain several discrete harvestable stocks of crab, which become available to the fishery at different periods during the season. These registration areas tend to develop fleets with less fishing power and also less overhead costs. The best yield from this type of fishery is usually attained by avoiding pulse fisheries, which harvest high volume from the immediately available stocks and tend to overharvest some stocks and underharvest others.

3.5.4 Harvest Limitations for AFA vessels

The Council may provide crab harvesting sideboard recommendations to the Board of Fisheries for each king and Tanner crab species. The State of Alaska, through the Board of Fisheries, may issue regulations, as described within Category 2 and 3 of this FMP, to establish an allowable harvest percentage of the GHL by AFA eligible vessels in any BSAI crab fishery, and to govern the in-season management of any sideboard harvest levels established for AFA eligible vessels.

3.5.5 Pot Limits

This FMP authorizes the State to use pot limits to attain the biological conservation objective and the economic and social objective of this FMP. In establishing pot limits, the State shall consider, within constraints of available information, the following: (1) total vessel effort relative to TAC/GHL, (2) probable concentrations of pots by area, (3) potential for conflict with other fisheries, (4) potential for handling mortality of target or nontarget species, (5) adverse effects on vessel safety including hazards to navigation, (6) enforceability of pot limits, and (7) analysis of effects on industry.

Pot limits must be designed in a nondiscriminatory manner. For example, pot limits that are a function of vessel size can be developed which affect large and small vessels equally. Historic data on pot registration and LOA could be used for developing pot limit regulations.

Only special types of situations warrant the use of pot limits. There are at least two such cases. First, because the deployment of excessive amounts of gear may result in high amounts of wastage due to pots

lost to advancing ice cover, pot limits may be a useful measure to attain the biological conservation objective. Second, it may not be possible to satisfy conservation concerns in a fishery using excessive amounts of gear to catch a relatively small guideline harvest from a depressed stock. Lacking ability to regulate the total number of pots placed on the grounds, it would otherwise be necessary to prohibit the fishery from ever opening. A limited but highly valuable fishery would be foregone. In this instance, prohibition of the fishery would satisfy biological conservation concerns, but the economic and social objective would not be satisfied. Rather, a pot limit would provide a mechanism to attain the economic and social objective within biological conservation constraints.

3.5.6 Sex Restrictions

Unless a surplus is determined to be available, female crabs cannot be taken. The surplus would be dependent on the number of crabs above the threshold amount used in the spawning stock calculation of OY. Most west coast crab fisheries take only male crab, a restriction that is assumed to contribute to maximum reproductive potential. The data base to support or reject an extensive harvest of female king or Tanner crab is poor.

Harvesting female king crab has not been an issue in past management of the king and Tanner crab fisheries. While management philosophy endorses a limited fishery for females in years of high abundance, industry has shown little interest. Not only are females considerably smaller than males of the same age, but the proportion of recoverable meat is much less than that of males of the same size. When a surplus of crabs is determined, this plan authorizes experimental harvest and processing of females by a State permit if fishermen provide accurate documentation of harvest rates and location, and processing and marketing results are made available to the management agency.

3.5.7 Minimum Size Limits

The FMP authorizes the State to adjust size limits under State regulations. In establishing minimum size limits, the State can consider, within constraints of available information, the following: (1) size at maturity (physiological, functional, or morphometric), (2) protection of reproductive capability, (3) market and other economic considerations, (4) natural and discard mortality rates, (5) growth rates, and (6) yield per recruit.

Typically, biological considerations such as (1), (2), and (4)-(6) are used to establish minimum legal size limits to ensure that conservation needs are served. Generally, preference for larger crabs based upon market and other economic considerations is achieved through processor/harvester agreements. If minimum size limits are proposed to be changed, an analysis with appropriate documentation will be presented.

Minimum size limits are commonly used in managing crab fisheries, and are important in meeting both the biological conservation and economic and social objectives of this FMP. The use of the estimated average size of maturity is intended to allow crabs to mate at least once before being subjected to harvest. Evidence available for red king crab suggests that recently matured males may not enter into mating activity until one or two years after attaining maturity, while studies on Tanner crab suggest that this period of delay does not exist. Thus, minimum size limits may be set at various intervals above the average size of maturity depending on a species life history pattern. In developing fisheries with insufficient information, there may be no size limit set.

Prior to the use of legal minimum size limits, minimum size of crabs landed was probably dictated by industry economic conditions, and to a large extent economics continues to play an important role. The legal minimum size limit for the Tanner crab species *C. opilio* has been 3.1", based on information on size of maturity and reproductive behavior. However, the average minimum size of crab landed since the inception of the domestic fishery has been in the range of 4.0" to 4.5". This reflects the desire for larger crabs by the processing sector. In March 2011, the Board approved a new minimum size limit harvest strategy for *C. baridi* effective for the 2011/12 fishery. Prior to this change, the minimum legal size limit

was 5.5” throughout the Bering Sea District. The minimum size limit for the fishery to the east of 166oW is now 4.8” and that to the west is 4.4”. The average minimum size retained tends to be larger, thus the processing sector’s preference for larger crab is accommodated by the industry, rather than through regulation.

Minimum size limit regulations interact closely with Total allowable catch (TAC) regulations (see Section 3.5.2). The minimum commercial size limit has been determined for each area by using the size when 50 percent of the male population is sexually mature and adding the estimated dimensional growth of males up to a two-year period. This normally would give each male the opportunity to reproduce at least once before becoming vulnerable to the fishery. The minimum size limit serves to determine the portion of the total male stock that is subjected to exploitation. The TAC for a given season and area is established by applying an exploitation rate to the commercial fraction of the males defined as legal by the minimum size limit in effect.

3.5.8 Fishing Seasons

Fishing seasons are used to protect king and Tanner crabs during the molting and mating portions of their life cycle. Normally the fisheries have been closed during these sensitive periods to protect crab from mortality caused by handling and stress when shells are soft, and to maximize meat recovery by delaying harvest until the shells have filled out. Fisheries conducted during sensitive biological periods have been, and should be in the future, carefully designed to prevent any irreparable damage to the stocks.

Closed seasons have been set to maximize the reproductive potential of the king and Tanner crab populations based on one or more of the following conditions:

1. Protection of any breeding population of male crab that may form dense schools prior to and during annual migrations into shallow water breeding grounds. Such migrations have been described for red king crab and could possibly occur with other crabs.
2. Consideration of molting periods so that the shells have hardened enough to permit handling with minimal damage or mortality.
3. Protection of the population during sensitive soft-shell periods.
4. Consideration of increasing product quality.
5. Minimization of bycatch.

At times, seasons have been set that conflict with some of the preceding conditions. Such openings historically have been based on one or more of the following considerations:

1. Provision for an exploratory fishery.
2. Compensation for particularly adverse environmental conditions, such as sea ice covering the fishing grounds.

The biologically sensitive period in the life cycle of both king and Tanner crabs within the management unit is generally from late winter to early summer. Part of the Tanner crab fishery has occurred during the mating period, although the timing of seasons for individual stocks may vary. Very little information is available on the sensitive period for golden king crab. The information that is available for golden king crab indicates that mating, molting, and hatching occur throughout the year and a sensitive period cannot be defined. Crab harvests frequently occur over a short period of time. Therefore, there is an opportunity to look beyond strictly biological conditions when setting season openings.

Within biological constraints, the open fishing season has been set:

1. To minimize the amount of deadloss. Deadloss has been found to increase if crabs are in soft-shell condition, if they are held for long time periods, if holding tanks are contaminated with fresh or warm water, or if crabs are handled too often.

2. To produce the best possible product quality.
3. To minimize fishing during severe weather conditions.
4. To minimize the cost of industry operations.
5. To coordinate the king and Tanner crab fisheries with other fisheries that are making demands on the same harvesting, processing, and transportation systems. Seasons can be timed relative to one another to spread fishing effort, prevent gear saturation, and allow maximum participation in the fisheries by all elements of the crab fleets, and
6. To reduce the cost of enforcement and management before, during, and after an open season, as affected by the timing and area of different king and Tanner crab seasons, and as affected by seasons for other resources.

King and Tanner crab seasons may be combined to minimize handling mortality, to maximize efficiency, and to reduce unnecessary administrative and enforcement burdens. Seasons may also be combined when a given species is taken primarily as an incidental catch; for example, *C. bairdi* are taken incidental to the red king crab fishery in Adak. Such considerations are secondary, however, to optimal utilization of each species. Specification of fishing seasons is important in achieving biological conservation, economic and social, vessel safety, and gear conflict objectives of this FMP.

3.5.9 Closed Waters

Subsistence fisheries in the BSAI area have been protected by closing to commercial fishing those waters fished in the subsistence fishery. The FMP recognizes State regulations that prohibit commercial fishing for king crab in waters within 10 miles of mean lower low water around St. Lawrence, King and Little Diomed Islands. The FMP also recognizes the following State closure to protect the Norton Sound subsistence king crab fishery:

All waters of the Norton Sound Section enclosed by a line from 65°23' N. lat., 167° W. long. to 64°15' N. lat., 167° W. long. to 64°15' N. lat., 162° W. long. to 63°27' N. lat., 162° W. long. are closed to the taking of king crab for commercial purposes during the summer season, currently August 1 to September 3. According to current State regulations, the State may reduce, by small increments, the closed waters to no less than 3 miles from mean lower low tide to allow the commercial king crab fishery to efficiently obtain the allowable harvest of red king crab.

The State may designate new closed waters areas or expand or reduce existing State closed waters areas. In making such changes, the State shall consider appropriate factors to the extent data are available on: (1) the need to protect subsistence fisheries, (2) the need to protect critical habitat for target or non-target species, (3) the prevention of conflict between harvesting of species, and (4) the creation of navigational hazard.

3.5.10 In-season Adjustments

The FMP authorizes the State to make in-season adjustments to GHLS and to fishing period lengths and to close areas under State regulations. In making such in-season adjustments, the State shall consider appropriate factors to the extent in-season data is available on: (1) overall fishing effort, (2) catch per unit of effort and rate of harvest, (3) relative abundance of king or Tanner crab, (4) achievement of GHLS, (5) proportion of soft-shelled crabs and rate of deadloss, (6) general information on stock condition, (7) timeliness and accuracy of catch reporting, (8) adequacy of subsistence harvests, and (9) other factors that affect ability to meet objectives of the FMP.

After registration areas are opened, seasons set, minimum sizes, and ~~GHLS~~ established pre-season, events can occur in-season which would disrupt the management scheme and resultant economic benefits to the nation. When a pre-season prediction proves to be incorrect or when an unanticipated event occurs which affects pre-season predictions, compensatory in-season adjustments must be made to keep the

management system on track toward the biological and economic objectives of this FMP. In-season adjustments and analysis will be conducted within the constraints of this FMP.

All in-season adjustments must be recorded and justified in writing. These justifications are attached to the emergency order and will be made available for review to the public, the State, the NMFS, and other regulatory agencies.

The State monitors the condition of king and Tanner crab stocks through such data and information as are practically available, both pre-season and in-season. When the State, in close communication with the NMFS, finds that continued fishing effort would jeopardize the viability of king or Tanner crab stocks within a registration area, or continued fishing would be counter to the goal and objectives established by this FMP, the registration area or a portion of the registration area is closed by emergency order. In determining whether to close a registration area, the State shall consider all appropriate factors to the extent there is information available on such factors. Factors to be considered for king and Tanner crabs include:

1. The effect of overall fishing effort within the registration area.

Large amounts of effort, vessels, and pots are often concentrated on crab aggregations. In extreme cases, high amounts of gear loss because of entanglement, and propeller contact result in wastage and unknown levels of harvest. In these limited areas, high levels of sorting of females and resultant mortality, and high levels of handling and sorting of nonmarketable crab because of soft-shell conditions result in wasted product and non-quantified harvests to the crab stocks. In-season data concerning these practices can result in emergency closures of limited areas where these conditions occur, resulting in a more orderly fishery, reduced gear loss, less wastage, and the ability to meet the biological conservation objective, as well as other objectives identified in this FMP. This provision also addresses the ability of the ADF&G to close a registration area when the projected harvest equals or exceeds the ~~TAC~~/GHL established for the registration area.

2. Catch per unit of effort and rate of harvest.

In addition to using CPUE to provide estimates when pre-season ~~TAC~~/GHLs are to be attained, these data are also analyzed in-season to check survey accuracy used to establish stock abundance levels and ~~TACs~~/GHLs. Often the effort expended in surveys is limited, particularly when compared to the sampling power of the commercial fleet. However, standardization of effort of the commercial fleet is always a limiting factor in interpreting in-season data. If in-season data analysis suggests stocks are significantly higher or lower than indicated by survey, ~~TACs~~/GHLs may be adjusted in-season using the new in-season estimates. Exploitation rates are generally not changed in-season, unless the estimates of stock levels using in-season data are so different from pre-season estimates that different exploitation rates are necessary.

In cases where annual survey data are either unavailable, or unreliable, in-season data are relied on heavily. Such provisions are essential for prevention of overfishing and adherence to the biological conservation objective of this FMP. To the degree exploitation rates are established to meet economic and social objectives, this provision could be used to maximize economic benefits as well.

3. Relative abundance of king or Tanner crab within the area in comparison with pre-season expectations.

Relative abundance is usually established by comparison of current in-season data with trends established over time within the current season or comparison with previous year's CPUE data. In certain cases, survey data may be obtained during an open fishery. These relative abundance data of king and Tanner crab stocks would be applied immediately to adjustment of ~~TACs~~/GHLs as

stated previously under item 2. This factor is usually considered as additional analysis of the data obtained or established under factors 1 and 2 previously discussed.

4. Such ~~TACs~~/GHLs as may be promulgated by State regulations.

The primary use of in-season emergency order authority is when an established ~~GHL~~TAC is reached and the fishery is to be closed within current State regulations established within the framework procedures listed in this FMP. The midpoint of the ~~GHL~~TAC is usually targeted except in cases where in-season data and analysis, or other provisions discussed in this section, require closure either before or after obtaining the established ~~GHL~~TAC, or below or above the range associated with the GHL.

5. The proportion of soft shell king or Tanner crab being handled and proportion of deadloss.

This factor is paramount to ensure product quality and prevention of unnecessary wastage. When deliveries of crab require significant levels of discard because of deadloss or unmarketable crab, a portion or all of a registration area may be closed to further harvest. Such closures are issued when sorting is of sufficient magnitude, at sea or at the unloading site, to have significant impacts on product quality or significant wastage. Rates of discard will vary; fixed rates are generally not established because factors modifying such decisions include the availability of non-molting crab within the registration area and the degree of alternative areas available to fish that have low rates of soft shell crab or molting crab. Even though local areas of high molting may occur, often other areas are available for harvest, and economic forces cause the fleet to move to those areas with acceptable handling mortality and deadloss associated with the harvest. The ability of managers to consider these factors without rigidly establishing formulas for issuing closures provides for continued fishing when the biological or economic consequences will be minimal, even though short periods of high sorting in local areas may occur. Such flexibility allows the State to meet the biological conservation objective, as well as the economic and social objective established in this FMP.

6. General information on the condition of the king or Tanner crab stocks within the area.

This factor, in addition to including the soft-shell or molting conditions discussed previously, includes the salability of the product. Discard of large amounts of old shell crab that have no market value but are capable of mating and assisting in reproduction is one of the factors considered. In cases where diseases or parasites affect product quality, emergency order closures of portions of a stock could benefit the industry significantly, while allowing continued harvest of portions of the stock that have high quality crab. Low yields from newly molted crab are also a factor which may be considered when wastage levels are high in comparison to the economic value of the harvest. Use of this factor primarily addresses the economic and social objective established by this FMP.

7. Timeliness and accuracy of catch reporting by buyers, fishermen, or vessel operators within the registration area to the extent that such timeliness or accuracy may reasonably be expected to affect proper management.

Management of a commercial fishery depends upon appropriate and timely data. In that in-season closure decisions almost always result in short-term loss of income for the participating commercial fleet and the processing industry, even though these closures will in the long run ensure long-term economic viability of these same participants, the temptation to underreport or misreport is obvious. Without accurate data, the management process breaks down. Therefore, the State may close a fishery if the timeliness and accuracy of catch reporting is inadequate. Only with this provision does the State have the ability to ensure compliance with reporting requirements and retain the ability to accurately regulate the fishery within the objectives

established by this FMP. This factor is used in justifying emergency action only when misreporting is of such magnitude as to jeopardize the management process.

8. Adequacy of subsistence harvests within the registration area.

If a crab stock has been customarily or traditionally used for subsistence diminishes so that all consumptive uses of that stock cannot be accommodated, State law requires that in most areas of Alaska, subsistence uses have a priority over other uses. Emergency order authority would be used if subsistence fisheries requirements are not being met by established regulations by the State. Emergency order authority would close commercial fisheries to ensure that subsistence harvests would be achieved without jeopardizing conservation concerns established in the biological conservation objective of this FMP.

3.6 Category 3 Management Measures Deferred to State

3.6.1 Gear Placement and Removal

The FMP defers gear placement and removal requirements to the State. Placement of unbaited gear, with doors secured open, on the fishing grounds before and after a season has been allowed within certain limits. Such early placement or late removal has been justified in light of (1) its lack of biological impacts, (2) enforcement problems and costs borne by the public and the industry, (3) lack of potential gear conflict, (4) the unavailability of loading or unloading facilities and gear storage areas, (5) vessel safety, (6) increasing the competitiveness of smaller vessels, and (7) decreasing fishing costs.

Because of regulations which allow gear placement on the grounds prior to, and immediately following a season, some highly competitive crab fisheries grew out of the need to provide additional time to haul gear to and from the fishing grounds because of limited storage and loading and unloading facilities available to the entire fleet.

3.6.2 Gear Storage

The FMP defers gear storage requirements to the State. Crab pots are generally stored on land or in designated storage areas at sea. Storage in a nonfishing condition in ice-free water areas of low crab abundance also has been justified in light of: (1) expected biological impacts; (2) the potential enforcement costs to the public; (3) the costs to vessel owners of storage on land; (4) the availability of other land and sea storage areas; and (5) the possibility that it would lead to gear conflict.

3.6.3 Gear Modifications

The FMP defers design specifications required for commercial crab pots and ring nets to the State. Pots and ring nets are the specified legal commercial gear for capturing crab in the BSAI area (Section 3.3.1). Multiple pots attached to a ground line are currently allowed by the State in the brown (golden) king crab fisheries. Various devices may be added to pots to prevent capture of other species; to minimize king crab bycatch, the State currently requires tunnel-eye heights to not exceed 3 inches in pots fishing for *C. bairdi* or *C. opilio* in the Bering Sea. Escape mechanisms may be incorporated or mesh size adjusted to allow female and sublegal male crab to escape; the State currently specifies escape rings or mesh panels in regulation for pots used in the BSAI *C. bairdi*, *C. opilio*, and brown (golden) king crab fisheries, in the Bristol Bay king crab fishery, and in the Pribilof District king crab fishery. State regulations also currently require incorporation of biodegradable twine as an escape mechanism on all pots which will terminate a pot's catching and holding ability in case the pot is lost.

3.6.4 Bycatch Limits

The FMP defers the right to implement bycatch limits of other species of crab in the crab fisheries managed under this FMP to the State. Often, regulation of bycatch in the directed fishery involves no, or limited, allocation because the same fishermen participate in both fisheries.

3.6.5 Reporting Requirements

Other than the Federal logbook requirements referenced in Section 3.3.1, assuming that all vessels participating in the fishery are licensed and registered with the State, only State reporting requirements are required by this FMP. Therefore, reporting requirements shall be deferred to the State.

Reporting of crab catches by individual vessel operators was required as early as 1941. Current State requirements (5 AAC 39.130) include: reporting the company or individual that purchased the catch; the full name and signature of the permit holder; the vessel that landed it with its license plate number; the type of gear used; the amount of gear (number of pots, pot lifts); the weight and number of crab landed including deadloss; the dates of landing and capture; and the location of capture. Processing companies are required to report this information for each landing purchased, and vessel operators are required to provide information to the processor at the time of sale. All reports (fish tickets) are confidential. Reporting requirements ensure adequate information and efficient management and enforcement. The State of Alaska obtains timely information through its current reporting requirements for all vessels participating in the fishery. Additional information is currently available from the State of Alaska shellfish observer program. The price paid for crab is also important information for managing the fisheries and is included on fish tickets but is currently not required information by the State because it is not always available at the time the fish tickets are prepared.

As the commercial Alaskan king and Tanner crab fisheries have grown over recent years, so has our knowledge of these species. Information gained through scientific surveys, research, and fishermen's observations have all led to a better understanding of the biology, environmental requirements, and behavior of the crab stocks. Since fishery managers monitor harvest rates in-season to determine areas of greatest fishing effort, thereby preventing overharvest of individual crab stocks, the current State catch and processing report requirements are an important component in achieving the biological conservation, economic and social, and research and management objectives of this FMP.

Information collected through the State Crab Observer Program (Section 3.6.7) and from industry reports constitutes the standardized bycatch reporting methodology for the crab directed fisheries. The standardized reporting methodology means established, consistent procedures used to collect, record, and report catch and bycatch in the fisheries. Industry members report catch and bycatch through eLandings reports and logbooks. From the information collected through observer and industry reports, management action can be informed pre or post-season in order to mitigate adverse impacts to the extent practicable. The Council will recommend changes to regulations when necessary, on the basis of such information.

3.6.6 Vessel Tank Inspections

The FMP defers tank inspection requirements to the State. Vessel tank, or live-hold and freezer, inspections usually are required before the opening of a king or Tanner crab fishing season to meet the legal requirements for the State's landing laws, provide effort information, and provide for a fair start to the fishery. The State normally considers the following factors when determining whether inspections should be required: (1) enforcement requirements, (2) the ability of the vessels to move easily between the fishing grounds and the location of inspection centers, (3) the time necessary for the vessels to transport their gear from storage areas to fishing grounds, (4) the fuel consumption that the inspection requirement will cause, and (5) the equity of allowing all participants to start the fishery at substantially the same time.

3.6.7 State Observer Requirements

The FMP defers the State Observer requirements to the State. The State may place observers aboard crab fishing and/or processing vessels when the State finds that observers provide the only practical mechanism to obtain essential biological and management data or when observers provide the only effective means to enforce regulations. Observers provide data on the amount and type of bycatch

occurring in each observed fishery and estimates of bycatch by species, sex, size, and shell-age/shell-hardness for each observed fishery are currently provided in annual reports by ADF&G.

The State currently requires onboard observers on all catcher/processor or floating-processor vessels processing king or Tanner crab and on all vessels participating in the Aleutian Islands red or brown (golden) king crab fisheries. The State currently may require observers on selected catcher vessels taking red or blue king crab in the Norton Sound section, if ADF&G provides funding for the observer presence. The State may also require onboard observers in other crab fisheries (e.g., the Pribilof Islands Korean hair crab *Erimacrus isenbeckii* fishery) to, in part, monitor bycatch of king or Tanner crab.

3.6.8 Other

As previously noted, the State government is not limited to only the management measures described in this FMP. However, implementation of other management measures not described in the FMP must be consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law, and may occur only after consultation with the Council. This management measure provides for an expanded scope of Federal review. Other management measures that the State may wish to implement are subject to the review and appeals procedures described in Sections 3.8 and 3.9 of this FMP.

3.7 Procedures for FMP Implementation

Implementation of this FMP requires an annual area management report discussing the current biological and economic status of the fisheries, GHL ranges, and support for different management decisions or changes in harvest strategies as outlined in Section 3.5.2. The Board currently receives proposals for king and/or Tanner crab regulation changes every third year, although the schedule may be modified if necessary. Management decision-making for king and Tanner crab stocks currently follows a relatively predictable schedule. The procedure for managing the fishery and how it encompasses research and fishing input is described in detail in Otto (1985) and Otto (1986) with respect to king crabs, and for this FMP, are illustrated in Figure 3-3. The precise scheduling of the various stages of this procedure may vary slightly from year to year.

The Secretary (through the Council and the National Marine Fisheries Service (NMFS) Alaska Regional Office) and the State have established the following protocol which describes the roles of the Federal and State governments:

1. The Council will develop an FMP (and future amendments) to govern management of king and Tanner crab fisheries in the EEZ of the BSAI, prescribing objectives and any management measures found by the Secretary to be necessary for effective management. The State will promulgate regulations applicable to all vessels registered with the State governing the fisheries in the EEZ that are consistent with the FMP, Magnuson-Stevens Act, and other applicable Federal law. The FMP contains three types of management measures: (1) specific Federal management measures that require an FMP amendment to change, (2) framework type management measures, with criteria set out in the FMP that the State must follow when implementing changes in State regulations, and (3) measures that are neither rigidly specified nor frameworked in the FMP, and which may be freely adopted or modified by the State, subject to an appeals process or other Federal law (see Section 3.9).
2. Representatives from the Council, NMFS, and NOAA General Counsel will participate in the State's development of regulations for management of king and Tanner crabs in the BSAI area, including direct participation in the Board meeting for the purpose of assisting the State in determining the extent to which proposed management measures are consistent with the FMP, Magnuson-Stevens Act, and other applicable Federal law. However, these representatives will not vote on the various management measures. The Secretary will review measures adopted by the

State to determine if they are consistent with the FMP, the Magnuson-Stevens Act and its national standards in accordance with Sections 3.8 and 3.9.

3. The Secretary will issue Federal regulations to supersede in the EEZ any State laws that are inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law. The Secretary will consider only those appeals asserting that a State law is inconsistent with the Magnuson-Stevens Act, the FMP, or other applicable Federal law (see Section 3.8).
4. The Alaska Department of Fish and Game (ADF&G) will have responsibility for developing the information upon which to base State fishing regulations, with continued assistance from NMFS. In carrying out this responsibility, ADF&G will consult actively with the NMFS (Alaska Regional Office and Northwest and Alaska Fisheries Center), NOAA General Counsel, the plan team, and other fishery management or research agencies in order to prevent duplication of effort and assure consistency with the Magnuson-Stevens Act, the FMP, and other applicable Federal law.
5. The FMP provides that the Commissioner of ADF&G, or his designee, after consultation with the NMFS Regional Administrator, or his designee, may open or close seasons or areas by means of emergency orders (EO) authorized under State regulations. Interested persons may appeal these actions to the Secretary for a determination that the emergency orders are consistent with the Magnuson-Stevens Act, the FMP, and other applicable Federal law. If the Secretary determines that the State action is inconsistent with the above, the Secretary will issue a Federal regulation to supersede the State EO in the EEZ (see Section 3.9).
6. A special means of access to the BSAI king and Tanner crab regulatory process for nonresidents of Alaska will be provided through an advisory committee. This Pacific Northwest Crab Industry Advisory Committee (PNCIAC) shall be sanctioned by and operate under the auspices of the Council. This is necessary because State law does not provide for the formation of a Board advisory committee located outside the State. This PNCIAC shall be recognized by the State as occupying the same consultative role on preseason and in-season management measures as all other existing State of Alaska Fish and Game Advisory Committees, no more and no less. The Council shall establish general guidelines and membership qualifications for the advisory group which shall be substantially similar to those guidelines established by the State pertaining to existing advisory committees. Within this framework the advisory committee shall establish its own by-laws and rules of procedure.
7. The PNCIAC shall be industry funded, but may request staff support from the Council, NMFS, and ADF&G as needed. The PNCIAC shall meet at appropriate times and places throughout the year to review and advise the State and the Council on crab management issues, stock status information, and biological and economic analyses relating to the BSAI king and Tanner crab fisheries. In addition, the PNCIAC shall report to the Council on any relevant crab management issue by filing reports as appropriate. The Council will also review reports as appropriate from other crab advisory committees that normally report to the Board. The PNCIAC shall review and advise the State on proposed preseason management measures. During the fishing season, the PNCIAC, on the same basis as any other Board advisory committee, shall monitor ADF&G reports and data, may recommend to ADF&G the need for in-season adjustments, and may advise on decisions relating to in-season adjustments and "emergency-type" actions. The PNCIAC may request review of any relevant matter to the Crab Interim Action Committee (discussed below) and may bring petitions and appeals in its own name pursuant to Sections 3.8 and 3.9 of this FMP, as may any other Board advisory committee.
8. A Crab Interim Action Committee (CIAC) shall be established by the Council for the purpose of providing oversight of this FMP and to provide for Council review of management measures and other relevant matters. The CIAC shall be composed of the following members:

Regional Administrator, NMFS, or his designee
Commissioner, ADF&G, or his designee
Director, Washington State Department of Fisheries, or his designee

There are three types of review the CIAC may engage in:

A. Category 1 Appeals of a Preseason Management Decision

In accordance with Section 3.8 of the FMP, any appeal of a preseason management decision that is rejected by the Board and subsequently appealed to the Secretary will be reviewed by the CIAC prior to the appeal being reviewed by the Secretary. The CIAC will have no authority to grant or reject the appeal, but shall comment upon the appeal for the benefit of the Secretary.

B. Category 2 Appeals of an In-season Management Decision

In accordance with Section 3.9 of the FMP, the Secretary will, to the extent possible when reviewing any appeal of an in-season management decision, communicate with the CIAC in advance of making his decision whether to grant or reject the appeal in order to solicit the CIAC's comments on the management decision at issue.

C. Category 3 Other

This category includes preseason management measures, in-season adjustments, and other matters relative to this FMP that fishery participants believe warrant Council action or attention, and which fall outside the Council's normal schedule for reviewing the FMP. The CIAC will not review any management decision or action that is concurrently being reviewed through the appeals process as outlined in Sections 3.8 and 3.9. Such requests for review shall clearly identify the management measures to be reviewed and shall contain a concise statement of the reason(s) for the request.

The CIAC shall function similarly to the Council's Interim Action Committee. The CIAC shall consider each request for review to determine whether the management measure(s) or other relevant matter(s) is consistent with this FMP (including compliance with framework criteria), the Magnuson-Stevens Act, and other Federal law. Following its review, the CIAC will comment on the appeal in the case of Category 1 and 2 reviews; may determine no action is necessary on the Category 3 request; or, for any of the Categories, recommend the issue to the Council for full Council consideration. In all cases, the CIAC shall issue its findings in writing.

9. The State will provide written explanations of the reasons for its decisions concerning management of crab fisheries. For emergency orders, the current EO written justification provided by the State meets this requirement.
10. An annual area management report to the Board discussing current biological and economic status of the fisheries, GHL ranges, and support for different management decisions or changes in harvest strategies will be prepared by the State (ADF&G lead agency), with NMFS and crab plan team input incorporated as appropriate. This report will be available for public comment and presented to the Council on an annual basis. GHLS will be revised when new information is available. Such information will be made available to the public.
11. Federal enforcement agents (NOAA) and the U.S. Coast Guard (DOT) shall work in cooperation with the State to enforce king and Tanner crab regulations in the BSAI area.

Figure 3-3 *A Placeholder for a Figure detailing the Annual cycle of management decision making for king and Tanner crab stocks and its interaction with fisheries and resource assessment. Regulatory proposals are addressed every three years by the Alaska Board of Fisheries. This figure will be added prior to the Secretarial review draft.*

3.8 Procedure for Council/Secretary of Commerce Participation

Prior to the Board Meeting

Commencing on the date the Secretary approves this FMP, and until the next regularly scheduled Board meeting concerning crab regulations, any member of the public may appeal any existing regulation to the State¹³ and, if unsuccessful, to the Secretary, and any Alaska Statute to the Secretary, in accordance with the procedure set forth below. Secretarial review is limited to whether the challenged statute or regulation is consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law.

At the Board Meeting

Before the annual Board meeting, the public has an opportunity to petition the State for new regulations or repeal of existing regulations. Copies of all proposals will be available to the public and to NMFS and the Council. Representatives of NMFS, NOAA's Office of General Counsel, and the Council will meet with the State and will participate in the State's discussions and deliberations for the purpose of assisting the State in determining the extent to which proposed management measures fall within the scope of the FMP, the Magnuson-Stevens Act, and other applicable Federal Law. However, these representatives will not vote on the various management measures.

After the Board Meeting

After the meeting, the procedure for review of the resulting crab regulations follows two paths:

First, under the State Administrative Procedure Act an interested person may petition the Board for the adoption or repeal of a regulation. A member of the public who objects to a crab regulation must first appeal through this procedure and must receive an adverse ruling which will be reviewed by the CIAC prior to the appeal being reviewed by the Secretary. The CIAC will have no authority to grant or reject the appeal, but shall comment upon the appeal for the benefit of the Secretary. An appeal to the Board is not limited to a challenge that the proposed regulation is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law. The Secretary will, however, consider only challenges to regulations alleging that the new regulations are inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law. The Secretary will not respond to comments that merely object to a regulation or state that an alternate regulation is better unless the interested person ties the objection to the appropriate standard of review. This will allow the Secretary to disregard frivolous comments and to encourage interested persons to participate fully in the State procedures before seeking Secretarial intervention. Nothing in this FMP is intended to limit any opportunity under the State Administrative Procedure Act for an interested person to seek judicial review of regulations.

The second path of review will be a Secretarial review of the measures adopted by the Board. During this review, the Secretary will review any measure adopted by the Board for consistency with the FMP, the Magnuson-Stevens Act, and other applicable Federal law. The Secretary will also consider comments submitted by the Council on any measure adopted by the State during the 20 days after the end of the Board meeting. The Secretary may hold an informal hearing, if time permits, to gather further information concerning the regulations under review. The Secretary will consider only comments on whether the new regulations are consistent with the FMP, the Magnuson-Stevens Act and other applicable Federal law.

If, as a result of its own review, or its review of comments received, or as a result of an appeal of an adverse decision in the State appeal process, the Secretary makes a preliminary determination that a

¹³ Current Board policy limits petitions to the subject of conservation emergencies.

regulation is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, then the Secretary will:

1. publish in the Federal Register a proposed rule that is consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law, together with the reasons for the rule, and request comments for 30 days, and
2. provide actual notice of the proposed rule to the Council and the Commissioner of ADF&G. The State will have 20 days to request an informal hearing.

If, after reviewing public comments and any information obtained in an informal hearing, the Secretary decides that the State regulations in question are consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law, the Secretary will publish in the Federal Register a withdrawal of the proposed rule, and so notify the State and the Council.

If the State withdraws the regulation or states that it will not implement the regulation in question, the Secretary will publish in the Federal Register a withdrawal of the proposed rule. The State may choose to withdraw its rule as a result of its own appeals procedure or because of the review procedure set up under this FMP.

If, after reviewing public comments and any information obtained in an informal hearing, the Secretary decides that the regulations in question are inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, the Secretary will publish in the Federal Register a final rule that supersedes the State regulation in the EEZ. Such rules are Federal regulations, which will comply with Federal rulemaking procedures and be enforced as Federal law.

If preseason changes are made at a Board meeting which takes place later in the year than anticipated here, or if there is not time to follow the procedure described in this section so that any final Federal rule that may be necessary can be effected in a timely fashion, the Secretary will notify the Council and the Commissioner of ADF&G that he will use an expedited review procedure, possibly including deletion of the requirement for initial appeal to the State, and explain what the procedure is. In the expedited review, the Secretary will provide for comment by the Council (or a committee of the Council) and the Commissioner of ADF&G if at all possible. However, if necessary, the Secretary can immediately publish in the Federal Register an interim final rule that supersedes in the EEZ any State regulation that the Secretary finds is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, and ask for comments on the interim final rule.

3.9 Procedure for Appeal

For the purposes of this section, an in-season appeal is an appeal of any action by the State, other than an action taken by the State that NMFS had already reviewed in the process described above. It includes an appeal of an action of the Board, of the ADF&G, or of the State legislature. The in-season appeal process is limited similarly to the preseason review process, in that the Secretary will only consider appeals that the State regulation is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law. For example, where State in-season, discretionary action is alleged to violate a Magnuson-Stevens Act National Standard, a management measure fixed in the FMP, or fails to follow the criteria set forth in the FMP for a decision under a frameworked management measure, an appeal to the Secretary would be appropriate. The Secretary will not consider appeals that merely state that the appellant does not like the regulation or prefers another. The latter argument is to be presented to the State.

If a person believes that an in-season action of the State is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, the person must, within 10 days of the issuance of the in-season action, submit to the Secretary in writing a description of the action in question and the reasons that it is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law. The

Secretary will immediately provide a copy of the appeal to the CIAC and the Commissioner of ADF&G. The Secretary will, to the extent possible when reviewing any appeal of an in-season management decision, communicate with the CIAC in advance of making his decision whether to grant or reject the appeal in order to solicit the CIAC's and the Commissioner's comments on the management decision at issue. If time permits, he will allow them 5 days for comment on the appeal. If the Secretary determines that there is not sufficient time available for this review, he will seek comments by telephone from the Commissioner of ADF&G and from the Council.

State crab regulations grant certain rights to appeal in-season area closures. An interested person may wish to pursue State appeal procedures along with the procedure described here. If, after review of the appeal and any comments from the Commissioner of ADF&G and the Council, the Secretary determines that the challenged action is consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law, he will so notify the appellant, the Commissioner of ADF&G, and the Council.

If, after review of the appeal and any comments of the Commissioner of ADF&G and the Council, the Secretary finds that the in-season action is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, and that for good cause he must immediately issue Federal regulations that supersede State regulations in the EEZ, he will publish in the Federal Register the necessary final Federal rule and request comments on the rule.

If, after review of the appeal and the comments of the Commissioner of ADF&G and the Council, the Secretary makes a preliminary determination that the action is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, but that Federal regulations that supersede the State regulation in the EEZ need not be implemented immediately, he will follow the procedure for preseason actions (see Section 3.8). That is, he will publish a proposed rule in the Federal Register and request comment, provide the State with an opportunity for an informal adjudicatory hearing, and either withdraw the proposed rule or publish a final rule that supersedes the State rule in the EEZ. This would be a Federal action and would comply with Federal rulemaking procedures.

4 Description of Stocks and Fishery

4.1 History of the Fishery

Historical exploitation of crab fisheries in the BSAI has been occurring since the early 1930s. A brief summary of exploitation, including foreign fishing, on the resource is detailed below.

The red king crab resource in the eastern Bering Sea was exploited by Japan in the 1930s and small amounts of Tanner crab were harvested beginning in 1953 (Zahn 1970, Otto 1981). The king crab fishery in the BSAI area underwent rapid development. After a short lived, small-scale American fishery in the late 1940s and 1950s, the Japanese reentered the fishery in 1953 and the Soviet Union entered the fishery in 1958. During 1964, the United States arranged bilateral agreements with Japan and the U.S.S.R. The foreign fisheries were gradually supplanted by an entirely American fishery which has had more than enough capacity to harvest and process the total resource since the late 1960s. Foreign fisheries for king crabs ceased in 1974 and those for Tanner crabs ceased in 1980.

Prior to Alaska statehood, the U.S. Bureau of Commercial Fisheries managed the crab fishery off Alaska. The Bureau established a minimum size limit, prohibited retention of soft shell and female crabs, and prohibited the use of tangle nets and set a minimum size for trawl nets. After achieving statehood, regulatory authority was vested in the Board with management responsibility assigned to the ADF&G. The Board adopted the Bureau's regulatory regime and added a registration system designed to protect local fleets and enhance management ability. By 1960, due to the expansion of the fishery, the State enacted landing laws which prohibited the sale or transportation within State waters of migratory fish and

shellfish taken on the high seas unless they were taken in accordance with State regulations. In 1970, the Board reacted to a rapid decline in the Kodiak king crab fishery by establishing a quota system, which was designed to allow a significant portion of the recruit class to be held over for the next year. This quota system was intended to moderate extreme fluctuations in harvest levels associated with the previous recruits-only fishery, and to enhance the reproductive potential of the stocks. In 1975, the Board modified the catch quota system to GHs, which were expressed as a range instead of a point estimate. This gave the State greater flexibility in selecting the most opportune point at which to close individual fisheries since more weight could be given to data collected during the course of the fishing season.

The domestic Tanner crab fishery in the BSAI area underwent rapid development in the 1970's. Both *C. bairdi* and *C. opilio* are harvested in the Bering Sea and *C. bairdi* is harvested in the waters off the Aleutian Islands. The first reported catch of *C. bairdi* within the management unit was 17,900 pounds taken incidental to the Bering Sea king crab fishery in 1968. *C. bairdi* soon became a target species, and by 1976 approximately 22.9 million pounds were landed from the BSAI area.

The BSAI crab fisheries have fluctuated drastically since the 1970s, and many are in a depressed state currently. As of 2023, *C. opilio*, PIBKC, and SMBKC are in rebuilding plans due to biomass falling below the minimum stock size threshold (MSST), more details of the rebuilding plans can be found in Section 3.2.2. In 2021, four crab fisheries of the of the 10 crab stocks and 11 fisheries managed under the BSAI King and Tanner crab FMP, were open to targeted fishing and were actively prosecuted, including the *C. opilio* fishery, both Eastern and Western AIGKC, and the Western Bering Sea *C. bairdi* (WBT) and PIGKC fisheries. ADF&G closed the BBRKC fishery for the 2021/22 and 2022/23 seasons, given low numbers of mature females in the population. Both the Eastern Bering Sea Tanner (EBT) and SMBKC fisheries were closed to targeted fishing by ADF&G for the 2016/17 and subsequent crab seasons; in October, 2018, the Council declared the SMBKC fishery to be overfished and adopted a rebuilding plan in June, 2020. The NSRKC fishery was declared open by ADF&G for the 2021 season, however, the principal buyer of commercial NSRKC landings continued its suspension of purchasing from the fishery that began in 2020, and the fishery did not operate during 2021 (Nichols et. al., 2022). The PIBKC stock has been designated overfished, and the combined PIBKC and PIRKC fishery has been closed, since 1999. To date, there has been no stock survey for WAIRKC and therefore no basis for stock status determinations, and the fishery has been closed since 2003/2004. For the most recent 2022 biomass, TAC and retained catch values see Section 4.2. Updated information surrounding stock status, retained catch, revenue, and other fishery statistics the SAFE and economic SAFE provide the most updated information.

4.2 Stocks

There are 10 federally managed stocks in BSAI area (Table 4-1). In most cases, these stocks are geographically separable on the basis of distribution and differing biological characteristics and interchange with adjacent groups is limited to oceanographic transport of planktonic larvae. In some cases, however, stocks are merely defined by existing regulatory boundaries either for statistical purposes or because pertinent information is lacking. A map showing the general location of BSAI crab fisheries is shown in Figure 4-1. Additional information about the BSAI registration areas can be found in Appendix E.

Table 4-1 Stocks of king and Tanner crab in the BSAI area.

Aleutian Islands golden king crab	Probably separated from Bering Sea stocks by an area of sparse king crab abundance north of Unimak Pass. There may be various distinct biological groups in the area (see Otto and Cummiskey 1985, Somerton and Otto 1986).
Aleutian Islands red king crab	One or several distinct groups that are geographically separated by deep water trenches in passes between islands and from Bering Sea stocks by an area of sparse king crab abundance north of Unimak Pass.
Bristol Bay red king crab	A distinct biological group (see Otto et al. 1989). Blue and golden king crab also occur here in low abundance but are not separately managed.
Pribilof District blue king crab	A distinct biological and geographic group (see Otto and Cummiskey 1990, Somerton and MacIntosh 1983a, 1983b).
Pribilof District red king crab	A distinct biological and geographic group.
Pribilof District golden king crab	Probably two biological groups (Pribilof and Zhemchug Canyons) that are not entirely geographically distinct from each other or from golden king crab found in Bristol Bay or the Northern District (see Otto and Cummiskey 1985, Somerton and Otto 1986).
St. Matthew Section blue king crab	A distinct biological and geographic group (see Otto and Cummiskey 1990, Somerton and MacIntosh 1983a, 1983b).
Norton Sound Section red king crab	A distinct biological and geographic group (see Powell et al. 1983, Otto et al. 1989).
Bering Sea District <i>C. bairdi</i>	Probably distinct from group(s) in Aleutian Islands. Probably consists of two groups (east and west) that differ biologically (see Somerton 1981).
Bering Sea District <i>C. opilio</i>	Considered as distinct because species is almost absent from Aleutians. Gradations in biological characteristics over their geographical range. Probably continuous with populations found in Soviet waters.

Figure 4-1 A placeholder for a figure detailing the general location of crab fishing activity in the BSAI. This figure will be added prior to the Secretarial review draft.

The boundary of the management unit extends to the outer limit of the EEZ, and the seaward boundary of the registration areas, district, and subdistricts is fixed by state regulations. Alaska’s registration areas can be found at <https://www.adfg.alaska.gov/index.cfm?adfg=CommercialByFisheryshellfish.shellfishmaps>. BSAI crab stocks in the Bering Sea are managed by the State of Alaska through a federal BSAI king and Tanner crab fishery management plan (FMP). Under the FMP, management measures fall into three categories: (1) those that are fixed in the FMP under Council control, (2) those that are frame worked so the State can change following criteria outlined in the FMP, and (3) those measures under complete discretion of the State (Table ES-1). The State requires vessels to register with the state by obtaining licenses and permits, and register for each fishery and each area. Observers requirements are delegated to the State of Alaska. The most up to date information regarding fishing seasons and fishery closures is reported by ADF&G. In-season management is delegated to ADF&G, and decision-making is based on pre-season specification of TAC. Area management biologists may issue emergency orders closing fisheries, but final decisions are made by the Commissioner or his designee.

Many of the federally managed stocks are managed on the crab fishing year (1-July to 30-June) rather than the calendar year. Table 4-2 details the current seasons for crab, recognizing that setting season dates is delegated by the State of Alaska, and are subject to change. The 10 federally managed crab fisheries are currently prosecuted using mesh covered pots.

Table 4-2 Fishing seasons for king and Tanner crab stocks in the BSAI area (second seasons for larger crabs are also possible by State emergency order (EO)).

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
<i>C. bairdi</i>		POT										POT
<i>C. opilio</i>		POT										POT
Blue king crab	POT											POT
Golden king crab	POT									POT		
Red king crab	POT											POT

Source: [Alaska Department of Fish and Game Commercial Shellfish Regulations](https://www.adfg.alaska.gov/index.cfm?adfg=shellfish_regulations)

4.2.1 Status of Stocks

The following sections summarize the status of the various crab stocks of commercial importance in the BSAI. More detailed assessments and current estimates of biomass and acceptable biological catches can be found in the Stock Assessment and Fishery Evaluation (SAFE) report, that is produced by the Crab plan team (available at <https://www.npfmc.org/fisheries/bsai-crab/>). The information in this section comes from the 2022/2023 SAFE reports. The report consists of the status of stocks report and shellfish observer program report, a summary of the NMFS survey of BSAI crab stocks, and a list of recently published literature pertinent to BSAI crab management, stock condition, fishery resource size, fishing effort, catch statistics, current biological and economic status of the fisheries, guideline harvest levels and ranges, and harvest strategies. The SAFE report contains further details on fishery statistics, resource assessment surveys, and the analytical techniques applied to the assessment of the various species.

4.2.1.1 Eastern Bering Sea snow crab

Snow crab (*Chionoecetes opilio*) are distributed on the continental shelf of the Bering Sea, Chukchi Sea, and in the western Atlantic Ocean as far south as Maine. In the Bering Sea, snow crab are distributed widely over the shelf and are common at depths less than ~200 meters. The eastern Bering Sea population within U.S. waters is managed as a single stock; however, the distribution of the population may extend into Russian waters to an unknown degree.

The fishery is managed for TAC with sex restrictions (males only). The minimum legal size for snow crab is 78 mm (3.1 inches), the fishery has generally harvests crabs over 4 inches in carapace width. The fishery is prosecuted using pots with mesh covering. Several modifications to pot gear have been introduced to reduce bycatch mortality in snow crab. In the 2001 season the escapement provisions for undersized crab was increased. Area swept estimates of abundance for the EBS snow crab stock are obtained through the NMFS annual bottom trawl surveys. A length-based analysis, developed by the Alaska Fisheries Science Center, incorporates survey and commercial catch and observer data into more precise abundance estimates. Abundance estimates generated by this model are used to set TAC. The ADF&G harvest strategy since 2000 sets harvest rate based on estimated mature biomass.

Retained catches of snow crab increased from relatively low levels in the early 1980s to historical highs in the early and mid-1990s. The stock was declared overfished in 1999. Retained catches slowly increased after 1999 as the stock rebuilt. However, in 2021 the stock was declared overfished following the collapse of snow crab in the 2020/2021 season. Given the fishery closures in 2022/2023, no vessels have participated in the fishery. When the fishery is open, vessel participation is reported in the SAFE and Economic SAFE. Recent mature male biomass and harvest specifications can be found in Table 4-2.

Table 4-3 EBS snow crab mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

EBS snow crab Status and Catch Specifications (1000t)				
	MMB	ABC	TAC	Retained Catch
2020/2021	26.7	71.6	20.40	20.4
2021/2022	41.2	5.6	2.5	2.5
2022/2023	55	7.7	0	0

4.2.1.2 Bristol Bay red king crab

Three discrete stocks of red king crab are actively managed in the BSAI region: Bristol Bay, Norton Sound, and Adak stocks. Red king crab stocks are managed separately to accommodate different life histories and fishery characteristics. The commercial harvest of Bristol Bay red king crab (BBRKC) dates to the 1930s, and shifted to a domestic fishery in the 1970s. The fishery is managed for a TAC coupled with restrictions for sex (males only), a minimum size for legal retention (6.5-in carapace width; 135-mm carapace length is used a proxy for 6.5-in carapace width in the assessment), and season (no fishing during mating/molting periods). Area swept estimates of abundance for the Bristol Bay red king crab stock are obtained through the NMFS annual bottom trawl surveys. A length-based analysis, developed by the ADF&G, incorporates survey and commercial catch and observer data into more precise abundance estimates. Abundance estimates generated by this model are used to set TAC.

The harvest strategy allows a maximum harvest rate of 15% of mature-sized (≥ 120 mm CL) males, but also incorporates a maximum harvest rate of 50% of legal males and thresholds of 8.4 million mature-sized (≥ 90 mm CL) females and 6.6 kt of effective spawning biomass (ESB) to prosecute a fishery. Harvest specification are set on a crab year, rather than a calendar year basis. Specifications for BBRKC are typically set in the fall.

Retained catch in the fishery peaked in 1980 at 58.9 kt but harvests dropped sharply in the early 1980s, and population abundance has remained at relatively low levels over the last four decades compared to those seen in the 1970s. In 2021/22 and 2022/23 the state of Alaska declared the fishery closed due to low levels of mature female abundance failed to meet the states criterion for opening the fishery. Given the fishery closures in 2021/2022 and 2022/2023, no vessels have participated in the fishery. When the fishery is open, vessel participation is reported in the SAFE and Economic SAFE. Recent mature male biomass and harvest specifications can be found in Table 4-3.

Table 4-4 BBRKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

BBRKC Status and Catch Specifications (1000t)				
	MMB	ABC	TAC	Retained Catch
2020/2021	13.96	1.61	1.20	1.26
2021/2022	16.64	1.78	0	0
2022/2023	16.95	2.43	0	0

4.2.1.3 Eastern Bering Sea Tanner crab

Fisheries have historically taken place for Tanner crab throughout their range in Alaska, but currently only the fishery in the EBS is managed under the FMP. The Bering Sea District of Tanner crab Registration Area J includes all waters of the Bering Sea north of Cape Sarichef at 54° 36'N and east of the U.S.-Russia Maritime Boundary Line of 1991. This district is divided into the Eastern and Western Subdistricts at 173°W.

In March 2011, the Alaska Board of Fisheries (BOF) approved a new minimum size limit harvest strategy for Tanner crab effective for the 2011/12 fishery. The regulations established different minimum size limits east and west of 166°W. The minimum size limit for the fishery to the east of 166°W is now 4.8 in. (122 mm CW) and that to the west is 4.4" (112 mm CW), where the size measurement includes the lateral

spines. the state of Alaska’s harvest control rules used to determine TAC generally incorporate minimum industry-preferred sizes that are larger than the legal minimums. In 2015, the minimum preferred harvest size used to compute TAC for the area east of 166°W longitude was changed from 140 mm CW (5.5 inches; including the lateral spines) to 127 mm CW (5.0 inches), the preferred size used to compute TAC for the area west of 166°W longitude (Stockhausen, 2022).

The Tanner crab fishery has undergone substantial fluctuations since the opening of the domestic fishery, resulting in several fishery closures. EBS Tanner crab was declared overfished in 1999 and in 2010, resulting in rebuilding plans both times per MSA requirements. Since then, the stock’s mature biomass. The fishery was open for 2021/22, with a TAC of 499 t, for the area west of 166°W longitude, leading to a retained catch of 494 t. Recent mature male biomass and harvest specifications can be found in Table 4-4. In 2021/22 vessel participation dropped below 50 vessels for the first time since 2004 (Nichols et. al., 2022).

Table 4-5 EBS Tanner crab mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

EBS Tanner Crab Status and Catch Specifications (1000t)				
	MMB	ABC	TAC	Retained catch
2020/2021	56.34	16.9	1.07	0.66
2021/2022	62.05	21.7	0.50	0.49
2022/2023	47.58	24.6	0.91	0.91

4.2.1.4 Pribilof Island red king crab

The Pribilof Islands red king crab fishery began in 1973 as bycatch during the blue king crab fishery. In 1993 and 1994 the red king crab fishery was open to directed fishing. From 1995 through 1998, combined GHs or TACs were used for the Pribilof Islands red and blue king crab fishery. Declines in crab abundance of both red and blue king crab stocks from 1996 to 1998 resulted in poor fishery performance with annual harvests below the GHs. The Pribilof red king crab fishery has been closed since 1999 due to uncertainty in estimated red king crab abundance and concerns for bycatch mortality of blue king crab, which is overfished and severely depressed. Fishery closures near the Pribilof Islands have resulted in low bycatch, and recent bycatch has been well below the OFL, ranging from 1.0 to 17.0 t from 2012/13 to 2020/21. Given the fishery closures, no vessels have participated in the fishery. Recent mature male biomass and harvest specifications can be found in Table 4-5.

Table 4-6 PIRKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

PIRKC Status and Catch Specifications (1000t)				
	MMB	ABC	TAC	Retained Catch
2020/2021	6.43	0.65	0	0
2021/2022	6.43	0.65	0	0
2022/2023	3.88	0.51	0	0

4.2.1.5 Pribilof Island blue king crab

The Pribilof Islands blue king crab fishery began in 1973, with peak landings of 4,990 t (11.0 million lb) during the 1980/81 season. A steep decline in landings occurred after the 1980/81 season. Directed fishery harvest from 1984/85 until 1987/88 was annually less than 454 t (1.0 million lb) with low CPUE. The fishery was closed from 1988/89 through 1994/95 fishing seasons. The fishery reopened for the 1995/96 to 1998/99 seasons. Fishery harvests during this period ranged from 589 to 1,134 t (1.3 to 2.5 million lb). The fishery closed again for the 1999/00 season due to declining stock abundance and has remained closed to the present. The stock was declared overfished in 2002.

Abundance estimates for the Pribilof Islands blue king crab stock are obtained through the NMFS annual bottom trawl surveys using an area-swept method. To prevent continued overfishing, ADF&G also implements closure areas for the commercial crab fisheries to reduce the blue king crab bycatch. NMFS has implemented procedures to account for blue king crab bycatch in the groundfish fisheries and to take action to prevent overfishing. Given the fishery closures, no vessels have participated in the fishery. Recent mature male biomass and harvest specifications can be found in Table 4-6

Table 4-7 PIBKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

PIBKC Status and Catch Specifications (t)				
	MMB	ABC	TAC	Retained Catch
2020/2021	181	0.87	0	0
2021/2022	180	0.87	0	0
2022/2023	180	0.87	0	0

4.2.1.6 Norton Sound red king crab

The Norton Sound red king crab (NSRKC) stock supports three fisheries: summer commercial, winter commercial, and subsistence. The summer commercial fishery, which accounts for most of the catch, reached a peak in the late 1970s. Retained catches since 1982 have been below 0.227 thousand t, averaging 0.136 thousand t, including several low years in the 1990s. The commercial fishery has maintained sustainable retained catch levels. In Norton Sound, a legal crab is defined as $\geq 4 \frac{3}{4}$ - inch carapace width (CW) (Menard et al. 2009), which is approximately equivalent to ≥ 104 mm carapace length (CL). In 2005 and 2006, commercial buyers, specifically Norton Sound Economic Development Corporation (NSEDC), accepted only legal crab of ≥ 5 inch CW. This preference became permanent in 2008. Participation in the summer fishery has varied, with 27 vessels participating in 2022, and 8 permit holders for the winter 2022 fishery.

Surveys of this populations are not regularly conducted, and abundance is not estimated each year. Consequently, aside from years when surveys are conducted, fisheries for these stocks are generally managed based on catch history and in-season catch performance monitoring. Recent mature male biomass and harvest specifications can be found in Table 4-7.

Table 4-8 NSRKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

NSRKC Status and Catch Specifications (t)				
	MMB	ABC	TAC	Retained Catch
2020	1.66	0.09	0.08	Conf.
2021	2.29	0.16	0.14	0.003
2022	2.42	0.18	0.15	0.15

4.2.1.7 Saint Matthew Island blue king crab

The St. Matthew Island Section for blue king crab is within Area Q , which is the Northern District of the Bering Sea king crab registration area and includes the waters north of Cape Newenham (58°39' N. lat.) and south of Cape Romanzof (61°49' N. lat.). The SMBKC fishery developed subsequent to baseline ecological studies associated with oil exploration (Otto 1990). Ten U.S. vessels harvested 545 t (1.202 million pounds) in 1977, and harvests peaked in 1983 when 164 vessels landed 4,288 t (9.454 million pounds) (Fitch et al. 2012). Harvest was fairly stable from 1986/87 to 1990/91. Harvest increased to a mean catch of 1,496 t (3.298 million lb) during the 1991/92 to 1998/99 seasons until the fishery was declared overfished and closed in 1999 when the stock size estimate was below the MSST. In 2008/09 and 2009/10, the stock was declared rebuilt in 2009. The fishery re-opened in 2009/10 after a 10-year

closure, closed in 2013/14 due to declining trawl-survey biomass, and opened from 2014/15 to 2015/16 with a TAC of 300 t (0.655 million lb). But fishery performance was relatively poor with retained catches and has remained closed since 2016/17. The stock declined below the minimum stock size threshold in 2018 and was declared overfished. A rebuilding plan was implemented in October 2020. Given the fishery closures, no vessels have participated in the fishery.

Male crab measuring ≥ 105 mm CL are considered mature, whereas 120 mm CL is considered a proxy for the legal size of 5.5 in carapace width, including spines. However, given the fishery closure starting in 2015/16, no crab have been retained. Abundance estimates for the St. Matthew blue king crab stock are obtained through the NMFS annual bottom trawl surveys using an area-swept method. ADF&G applied catch-survey analysis to St. Matthew Island and Pribilof Islands blue king crab stock beginning in 1996. It is particularly suited for blue king crabs that occupy untrawlable areas. Recent mature male biomass and harvest specifications can be found in Table 4-8.

Table 4-9 SMBKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

SMBKC Status and Catch Specifications (1000t)				
	MMB	ABC	TAC	Retained Catch
2020/2021	1.14	0.08	0	0
2021/2022	1.18	0.08	0	0
2022/2023	1.31	0.11	0	0

4.2.1.8 Aleutian Island golden king crab

The Aleutian Islands golden king crab fishery was restructured beginning in 1996/97 to replace the Adak and Dutch Harbor areas with the newly created Aleutian Islands Registration Area O and golden king crab in the areas east and west of 174° W longitude were managed separately as two stocks (ADF&G 2002). Hereafter, the east of 174° W longitude stock segment is referred to as EAG and the west of 174° W longitude stock segment is referred to as WAG. The size limit for golden king crab has been 6-inches (152.4 mm) CW for the entire Aleutian Islands Area since the 1985/86 season. A carapace length (CL) ≥ 136 mm is used to identify legal size males when CW measurements are not available.

Golden king crab may be commercially fished with king crab pots. Pots used to fish for golden king crab in the Aleutian Islands Area are longlined and, since 1996, each pot must have at least four escape rings of five and one-half inches minimum inside diameter installed on the vertical plane or at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing to permit escapement of undersized golden king crab.

The directed fishery has been prosecuted annually since the 1981/82 season. Retained catch peaked in 1986/87, and averaged 5.398 kt (11.9 million lb) over the 1985/86-1989/90 seasons. The TAC has fluctuated since the opening of the fishery. At no point in historical fishery data has the stock been overfished or approaching overfishing. In 2022, five vessels participated in the fishery. Since 2019/20, the TACs have been based on the harvest strategy adopted by the Alaska Board of Fisheries in March 2019. Recent mature male biomass and harvest specifications can be found in

Table 4-10 AIGKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

AIGKC Status and Catch Specifications (1000t)				
	MMB	ABC	TAC	Retained Catch
2020/2021	16.21	3.6	2.99	3.52
2021/2022	12.59	3.4	2.69	3.06
2022/2023	13.6	2.8	2.29	2.37

4.2.1.9 Pribilof island golden king crab

Commercial fishing for golden king crab in the Pribilof District has been concentrated in the Pribilof Canyon. The domestic fishery developed in 1982/83, although some limited fishing occurred at least as early as 1981/82. The minimum legal size limit for Pribilof District golden king crab is 5.5-inches (140 mm) carapace width (CW), including spines. A carapace length (CL) ≥ 124 mm is used to identify legal-size males when CW measurements are not available.

Peak retained catch occurred in 1983/84 at 856,475 lb (388 t). The fishing season for this stock has been defined as a calendar year (as opposed to 1-July to 30-June crab fishing year) after 1983/84. Since then, participation in the fishery has been sporadic and annually retained catch has been variable: from there being none in the ten years that no vessels participated (1984, 1986, 1990–1992, 2006–2009, 2015, and 2016) to 341,908 lb (155 t) in 1995, when seven vessels made landings. A GHL was first established for the fishery in 1999 at 200,000 lb (91 t). No vessels participated in the directed fishery and no landings were made during 2006–2009 or 2015-2016. The 2003 and 2004 fisheries were closed by emergency order to manage the retained catch towards the GHL; the 2005 and 2010–2014, 2017-2019 fisheries were not closed by emergency order. Four vessels participated in both 2020 and 2021, harvesting 107,679 lb (48.8 t) and 34,216 lb (15.5 t), respectively. Three vessels participated in the 2022 fishery, though landings can not be reported due to confidentiality requirements.

The fishery is not rationalized and there is no state harvest strategy in regulation. There are no current survey biomass estimates for management of this stock. Recent harvest specifications can be found in Table 4-10

Table 4-11 PIGKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

PIGKC Status and Catch Specifications (t)				
	MMB	ABC	TAC	Retained Catch
2020	NA	70	59	48.8
2021	NA	70	59	15.5
2022	NA	70	59	Conf.

4.2.1.10 Western Aleutian Island red king crab

The domestic fishery has been prosecuted since 1960/61 and was opened every year through the 1995/96 crab fishing year. After 1995/96, the fishery was opened only occasionally. There was an exploratory fishery in 1998/99, three commissioner’s permit fisheries in limited areas during 2000/01–2002/03 to allow for ADF&G-Industry surveys, and two commercial fisheries with a GHL of 227 t in 2002/03 and 2003/04 in the Petrel Bank area. The fishery has been closed since 2003/04. Given the fishery closures, no vessels have participated in the fishery.

There are no current survey biomass estimates for management of this stock. Recent harvest specifications can be found in Table 4-11.

Table 4-12 WAIRKC mature male biomass (MMB), allowable biological catch (ABC), and total allowable catch (TAC) from 2020/21-2022/23 based off the SAFE report.

WAIRKC Status and Catch Specifications (t)				
	MMB	ABC	TAC	Retained Catch
2020	NA	14	0	0
2021	NA	14	0	0
2022	NA	14	0	0
2023	NA	14	0	0

4.3 Habitat

The following sections describe the habitat of the BSAI management area, define essential fish habitat for each of the managed species, describe habitat areas of particular concern, and provide habitat conservation and enhancement recommendations.

4.3.1 Habitat Types

The Bering Sea covers almost 3 million km² and is unusual in having an extremely wide continental shelf, ranging from 500 km wide in the southeast region to over 800 km wide in the north (NRC 1996). The Bering Sea has certain characteristic features which make it different from other corresponding regions in higher latitudes (Table 4-12). The Bering Sea shelf is flat and relatively featureless, with the exception of three large and some small islands. Its gradient is 0.24 m /km sloping gradually to a depth of about 170 m at the shelf break. (Niebauer et al. 1995, Sharma 1977). The geography of the coastal area bordering the Bering Sea has been shaped by geologic forces, strong erosion of the Bering itself, and the subarctic climate.

The southern border of the Bering Sea is bounded by the Aleutian Islands, a chain of volcanic islands, many of which are still active. The islands extend more than 1,770 km and consist of more than 50 islands, in five groups, separating the Bering Sea from the North Pacific Ocean. The Aleutian and Shumagin Islands are low mountains with steep to moderate slopes and rolling topography. Plateaus and uplands occur in some places in the chain. Elevations of the islands range from sea level to nearly 1,524 m. A number of the islands have wave-derived terraces up to 183 m above sea level, and are bordered by lower sea cliffs from previous sea level stands. Broad and flat intertidal platforms derived from glacial period sea level changes surround some islands. Those islands with peaks higher than 914 m were heavily glaciated and include fjords extending up to 610 m into the sea.

The Pribilof Islands are five small islands in the Bering Sea that lie 322 km north of the Aleutian Island of Unalaska. St George Island is characterized by hills and ridges with steep cliffs rising up to 274 m. In contrast St. Paul Island has a rolling plateau with some extinct volcanic peaks. The islands of St. Matthew, Pinnacle and Hall are located north of the Pribilof Islands and about 324 km west of mainland Alaska. These islands have steep shorelines and volcanic ridges with volcanic cones rising up to 458 m (NRC 1996).

The waters of the Bering Sea can be partitioned (Kinder and Schumacher, 1981 a, b) during the summer by transition zones which separate four hydrographic domains. The hydrographic domains are distinguished by bottom depth and seasonal changes in their vertical density structure. During the winter this structure is absent or much less apparent under the ice. Maximum ice extent occurs in March or April and the seasonal ice advance and retreat in the Bering Sea on the average extends over a distance 920 km along 170EW (Konishi and Saito, 1974). Beginning in the nearshore area, the coastal domain includes waters less than 50 m in depth that due to tidal and wind mixing do not stratify seasonally. A frontal zone of transition separates the coastal domain from the middle shelf domain. In the middle shelf domain, over bottom depths of 50 to 100 m, seasonal stratification sets up during the ice-free season, and warmer, less

saline waters overlies colder and more saline bottom waters. This stratification persists until broken down by winter cooling and storms. A broad transition or frontal zone separates the middle shelf zone from the outer shelf domain. This latter domain, in water depths from 100 to 170-200 m, is characterized by well-mixed upper and lower layers separated by a complex intermediate layer containing fine density structure. In general, outer shelf waters intrude shoreward near the bottom, while middle shelf waters spread seaward above them. Beyond the outer shelf domain, the shelf break front separates shelf waters from the oceanic domain, with its more saline, less aerobic waters overlying the Bering Sea slope and deep basin.

Net circulation in the Bering Sea is generally sluggish. While there is a relatively strong current at the shelf break (about 0.10 m s⁻¹), net flow over the shelf is weak at 0.01-0.03 m s⁻¹ directed toward the northwest and parallel to the isobaths. However, moderate to strong tidal and wind-driven currents can be established over the shelf. Tidal current speed is about 0.3 m s⁻¹ (Niebauer et al. 1995). The hydrography over the shelf is dominated by a system of three fronts, located approximately parallel to the 50 and 100-m isobaths and the shelf break (Coachman, 1986). Nearshore coastal currents from the Gulf of Alaska shelf flow into the Bering Sea through Unimak Pass and then apparently continue northeastward along the Alaska Peninsula. Within the middle shelf domain (water depths from 50-100 m) currents are weak and variable, responding temporarily as wind driven pulses. In the outer shelf domain, a mean northwestward flow exists along the shelf edge and upper slope following depth contours.

With respect to the physiographic regimes and hydrographic domains of the Bering Sea, king crabs cross boundaries during seasonal and spawning migrations from one domain to another. Shelf dwellers, during the winter period king crabs move shoreward during the late winter and early spring and congregate on molting and spawning shoals. Crabs may occupy shoals from 50 to less than 20 fathoms at this time of year. *Chionoecetes* species also may make off-shelf migrations for spawning and molting.

Table 4-13 Characteristic features of the eastern Bering Sea shelf ecosystem.

<u>Characteristic features</u>	<u>Consequences</u>
<u>Physical features</u>	
<u>Large continental shelf</u>	<u>High standing stocks of biota</u> <u>High fish production</u> <u>Large food resources for mammals</u>
<u>High latitude area</u>	<u>Nutrient replenishment with seasonal turnover</u> <u>Environmental distribution limits for many species</u> <u>Large seasonal changes</u> <u>Seasonal presence of ice</u> <u>Accumulation of generations</u>
<u>Large occasional changes</u>	<u>Seasonally changing growth</u> <u>Seasonal migrations</u> <u>Possibility of large anomalies</u>
<u>Ice</u>	<u>Presence of ice-related mammals</u> <u>Migration of biota (in and out) caused by ice</u> <u>Limited production in winter</u>
<u>Cold bottom water</u>	<u>Outmigration of biota</u> <u>Higher mortalities and lower growth of benthic and demersal biota</u> <u>Accumulation of generations</u>
<u>High runoff</u>	<u>Low salinities (near coasts)</u> <u>High turbidities</u> <u>Presence of eurohaline faunas</u>
<u>Sluggish circulation</u>	<u>Local biological production</u> <u>Local pelagic spawning</u>
<u>Biological features</u>	
<u>High production and slow turnover</u> <u>Fewer species (than in lower latitudes)</u> <u>Large numbers of marine mammals and birds</u> <u>Pronounced seasonal migrations</u>	<u>High standing stocks</u> <u>Few species quantitatively very dominant</u> <u>High predation by apex predators</u> <u>Great local space and time changes of abundance</u>
<u>Fisheries resource features</u>	
<u>Pollock dominant semidemersal species</u> <u>Yellowfin sole dominant demersal species</u> <u>Herring and capelin dominant pelagic species</u> <u>Abundant crab resources</u> <u>Abundant marine mammals</u>	<u>Flexible feeding and breeding habits, special environmental adaption</u> <u>Abundant benthos food supply</u> <u>Important forage species in the ecosystem</u> <u>Large, relatively shallow shelf</u> <u>Few predators on adults, special environmental adaption</u> <u>Abundant food supply, no enemies, insignificant hunting</u> <u>Compete with man for fishery resources</u>
<u>Man-related features</u>	
<u>Fisheries development rather recent</u> <u>Little-inhabited coasts</u>	<u>Ecosystem in near-natural state, not yet fully adjusted to effects of extensive fishery</u> <u>Ample space for breeding colonies of mammals and birds</u> <u>Very limited local fisheries, no pollution</u>

Source: Favorite and Laevastu, 1981

4.3.2 Essential Fish Habitat (EFH)

EFH is defined in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” EFH for crab species is determined to be the general distribution of a species described by life stage. General distribution is a subset of a species’ total population distribution and is identified as the distribution of 95 percent of the species population, for a particular life stage, if life history data are

available for the species. Where information is insufficient and a suitable proxy cannot be inferred, EFH is not described. General distribution is used to describe EFH for all stock conditions whether or not higher levels of information exist, because the available higher level data are not sufficiently comprehensive to account for changes in stock distribution (and thus habitat use) over time. EFH is described for FMP-managed species by life stage as general distribution using guidance from the EFH descriptions are interpretations of the best scientific information. In support of this information, a thorough review of FMP species is contained in Appendix D.

4.3.2.1 HAPCs

50 CFR 600.815(a)(8) provides guidance to the Councils in identifying habitat areas of particular concern (HAPCs). HAPCs are areas within EFH that are of particular ecological importance to the long-term sustainability of managed species, are of a rare type, or are especially susceptible to degradation or development. HAPCs are meant to provide for greater focus of conservation and management efforts.

In order to protect HAPCs, certain habitat protection areas and habitat conservation zones have been designated. A habitat protection area is an area of special, rare habitat features where fishing activities that may adversely affect the habitat are restricted. The following areas have been designated in the BSAI (Figure 4-3):

- Bowers Ridge Habitat Conservation Zone
- Aleutian Islands Habitat Conservation Areas
- Aleutian Islands Coral Habitat Protection Areas
- Alaska Seamount Habitat Protection Area
- Areas of Skate egg concentration

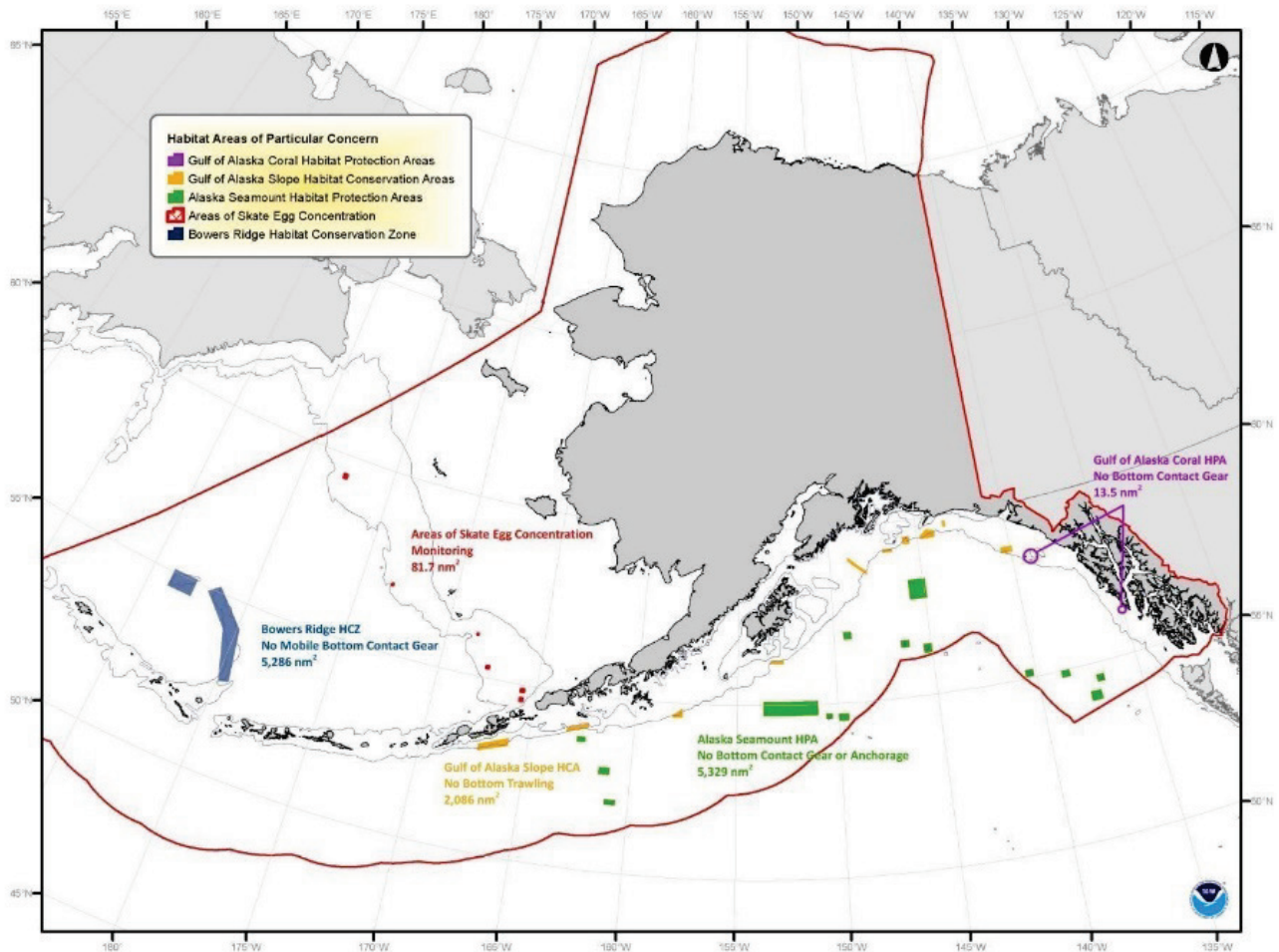


Figure 4-2: Map of Habitat Areas of Particular Concern in the EEZ off Alaska.

4.4 Fishing Activities Affecting the Stocks & Crab bycatch measures

The Bering Sea and Aleutian Islands management area is utilized primarily by commercial fisheries. The BSAI crab fisheries have been entirely domestic since 1991 (a history of exploitation is addressed in Section 4.1). The Council and the Alaska Board of Fisheries have adopted numerous regulations designed to protect habitat and minimize bycatch and bycatch mortality of crab taken incidentally in groundfish and scallop fisheries. An overview of these measures is provided below.

4.4.1 Closure Areas

Several areas of the Bering Sea have been closed to groundfish trawling and scallop dredging to reduce potential adverse impacts on the habitat for crab and other resources. Figure 4-4 details the conservation areas in the North Pacific, recognizing that all of the closed areas are not relevant to the BSAI crab fisheries.

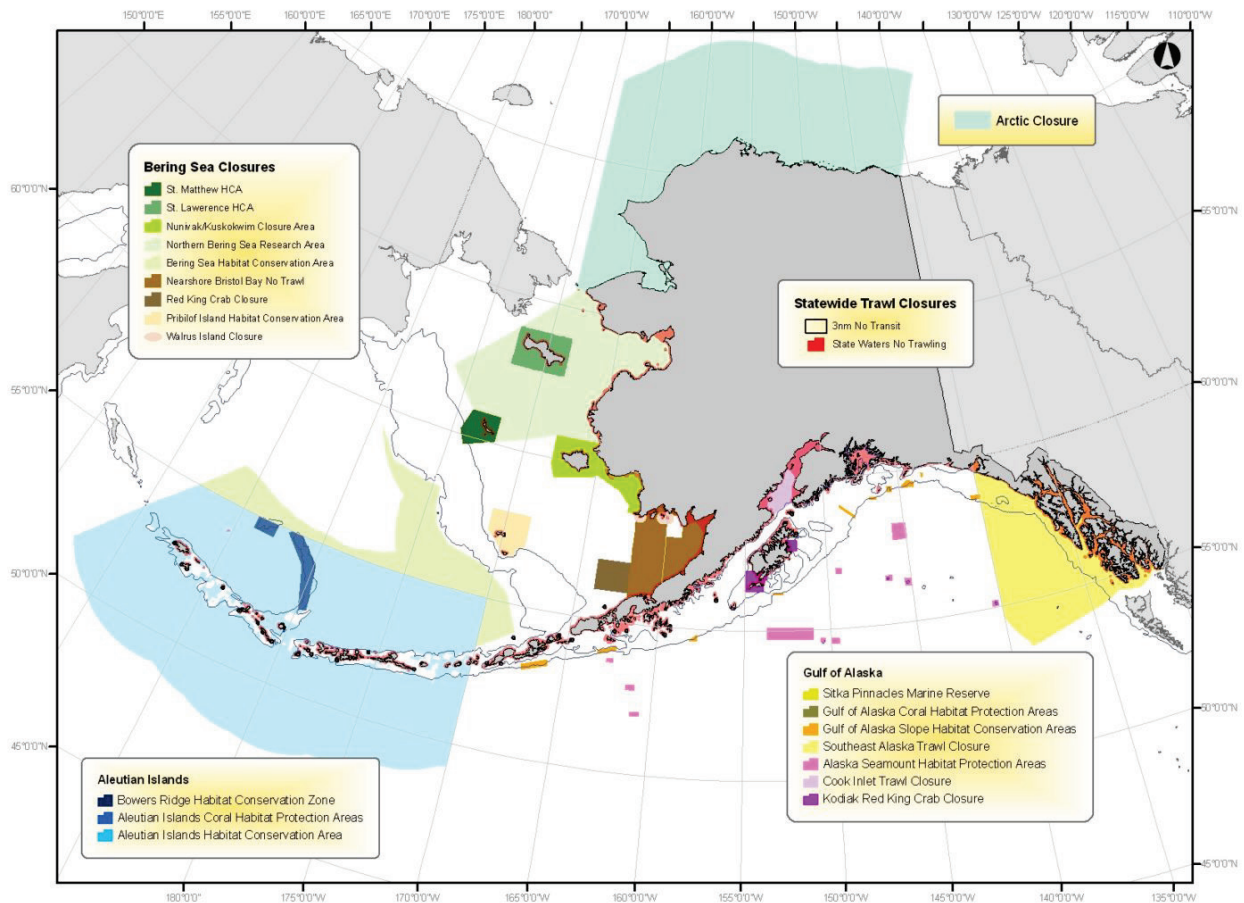


Figure 4-3 Map of conservation areas in the North Pacific. Please note that this figure does not wholistically represent all conservation areas in the North pacific.

Beginning in 1995, the Pribilof Islands Conservation Area (Figure 4-4) was closed to all trawling and dredging year-round to protect blue king crab habitat (NPFMC 1994b). Also beginning in 1995, the Red King Crab Savings Area was established as a year-round bottom trawl and dredge closure area (NPFMC 1995) (Figure 4-4). This area was known to have high densities of adult red king crab, and closure of the area greatly reduced bycatch of this species. To protect juvenile red king crab and critical rearing habitat (stalked ascidians and other living substrate), another year-round closure to all trawling was implemented for the nearshore waters of Bristol Bay. Specifically, the area east of 162° (i.e., all of Bristol Bay) is closed to trawling and dredging, with the exception of an area bounded by 159° to 160° W and 58° to 58°43' N that remains open to trawling during the period April 1 to June 15 each year.

4.4.2 Bycatch Limits

The Council has adopted numerous limits on the incidental capture of crabs taken in groundfish and scallop fisheries. A summary is provided below.

Prescribed bottom trawl fisheries in specific areas are closed when prohibited species catch (PSC) limits of *C. bairdi* Tanner crab, *C. opilio* crab, and red king crab are taken. Bycatch limitation zones for Tanner and red king crab PSC are shown in Figure 4-5. Crab PSC limits for groundfish trawl fisheries are based on crab abundance as shown Table 4-13. Updated PSC limits are found in the regulations.

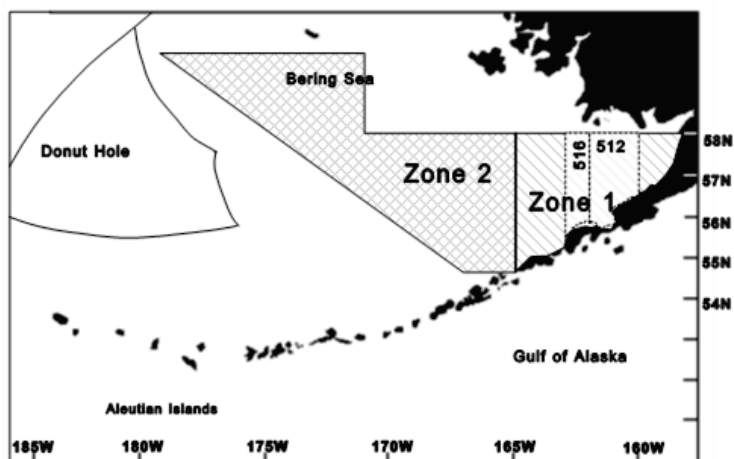


Figure 4-4 Bycatch limitation zones for Tanner and red king crab.

Table 4-14 Prohibited species catch (PSC) limits for red king crab and *C. bairdi* Tanner crab in Zone 1 and Zone 2

PSC limits for red king crab and <i>C. bairdi</i> Tanner crab			
Species	Zone	Crab abundance	PSC Limit (# of crab)
Red King crab	Zone 1	Below threshold or 14.5 million lbs of effective spawning biomass (ESB)	32,000
		Above threshold, but below 55 mil. Lbs of EBS	97,000
		Above 55,000 mil lbs. of EBS	197,000
<i>C. bairdi</i>	Zone 1	≤ 150 mil. crab	.5 % abundance – (20,000)
		150-270 mil. crab	730,000
		270-400 mil. crab	830,000
		>400 ,mil. crab	980,000
<i>C. bairdi</i>	Zone 2	≤170 mil. crab	1.2% abundance- (30,000)
		175-290 mil. crab	2,070,000
		290-400 mil. crab	2,520,000
		>400 mil. crab	2,970,000

Under Amendment 40, in the BSAI Groundfish FMP, PSC limits for snow crab (*C. opilio*) taken in groundfish fisheries are based on total abundance of opilio crab as indicated by the NMFS standard trawl survey (NPFMC 1996). The snow crab PSC cap is set at 0.1133% of the Bering Sea snow crab abundance index, with a minimum PSC of 4.350 million snow crab and a maximum of 12.850 million snow crab. Snow crab taken within the *C. opilio* Bycatch Limitation Zone (COBLZ) (Figure 4-6) accrue towards the PSC limits established for individual trawl fisheries. An area closure for EBS snow crab is triggered if the groundfish trawl fisheries by target/sector reach their allocated PSC limit for the COBLZ. No measures limiting PSC are currently in place for any pelagic trawl and fixed gear fisheries, nor are there overall limits placed on bycatch of snow crab species outside of COBLZ.

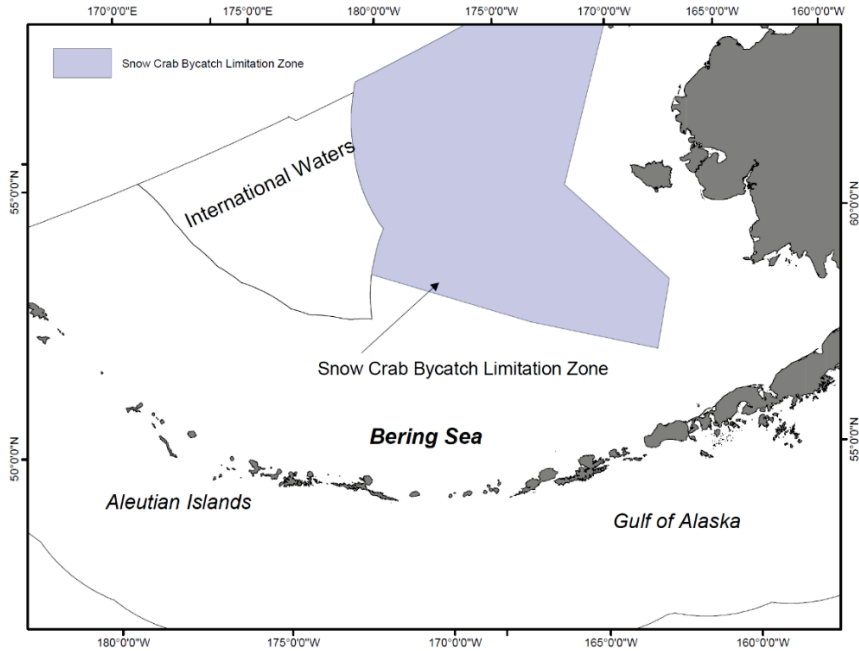


Figure 4-5 *C. opilio* bycatch limitation zone (COBLZ), labeled as the snow crab bycatch limitation zone

Crab bycatch limits have also been established for the Alaska scallop fisheries. Annual crab bycatch limits (CBLs) are specified for red king crab and Tanner crab species in each registration area or district thereof (Table 4-14). In Registration Area Q (the Bering Sea), the annual CBLs shall equal the following amounts:

1. The CBL of red king crab caught while conducting any fishery for scallops shall be within the range of 500 to 3,000 crab based on specific considerations.
2. The CBL of *C. opilio* Tanner crab caught while conducting any fishery for scallops is 0.003176 percent of the most recent estimate of *C. opilio* abundance in Registration Area Q.
3. The CBL of *C. bairdi* Tanner crab caught while conducting any fishery for scallops is 0.13542 percent of the most recent estimate of *C. bairdi* abundance in Registration Area Q.

In other Registration Areas (Gulf of Alaska and Aleutian Islands), CBLs will be based on the biological condition of each crab species, historical bycatch rates in the scallop fishery, and other socioeconomic considerations that are consistent with the goals and objectives of the FMP. Annual CBLs will be specified for the time period from July 1 through June 30 of the following year.

Table 4-15 Statewide crab bycatch limits (CBLs), in percent of the crab abundance estimate or number of crab

Scallop Registration Areas	Red King Crab	<i>C. bairdi</i>	<i>C. opilio</i>
Yakutat (D)			
District 16	NA	NA	NA
Remainder of Area D	NA	NA	NA
Prince William Sound (E)			
Eastern Section of outside District	NA	0.5% ^a	NA
Cook Inlet (H)			
Kamishak District	0.5% ^a	60 crabs ^a	NA
Outer/Easter/Barren Island Districts	NA	NA	NA
Kodiak (K)			
Shelikof District	0.5% or 1.0%	0.5% or 1.0%	NA
Northeast District	0.5% or 1.0%	0.5% or 1.0%	NA
Semidi District	Regulated inseason	Regulated inseason	NA
Alaska Peninsula (M)	0.5% or 1.0%	0.5% or 1.0%	NA
Bering Sea (Q)	500 crabs ^a	Three Tier Approach	Three Tier Approach
Dutch Harbor (O)	0.5% or 1.0%	0.5% or 1.0%	NA
Adak (R)	50 ^b	10,000 ^b	NA

NA= Not applicable

^aFixed CBL

^bBycatch limit set to allow scallop fleet adequate opportunity to explore and harvest scallop stocks while protecting the crab resource

4.5 Fishing Communities

This section contains overview of the fishing communities that depend on the commercial crab fisheries in the BSAI. Full community profiles can be found in Appendix C. The information cited in this section is drawn from the Annual community engagement and participation overview (ACEPO) report, *Fishing communities of Alaska engaged in federally managed fisheries* (Fey et. al., 2016), *Baseline Commercial Fishing Community profile updates: Akutan and Unalaska, Alaska* (Downs and Henry, 2023), and *Alaska community profiles* (Wise et. al., 2022). Appendix C details a summary of community profiles for many of the crab fishing-dependent communities. Updates to information surrounding crab-dependent communities can be found in the Annual Community and Participation Overview (ACEPO) report, the Economic SAFE, and at <http://www.npfmc.org> as available.

Traditionally, the dependence of BSAI coastal communities on the crab fisheries and fisheries affected by the crab fisheries has resulted from these communities being one or more of the following: 1) the home ports of vessels that participate in these fisheries; 2) the residence of participants in the harvesting or processing sectors of these fisheries; 3) the port of landings for these fisheries; 4) the location of processing plants; and 5) a service or transportation center for the fisheries. BSAI coastal communities are shown in Figure 4-7, please note that all the figure is not a comprehensive representation of Alaska communities.

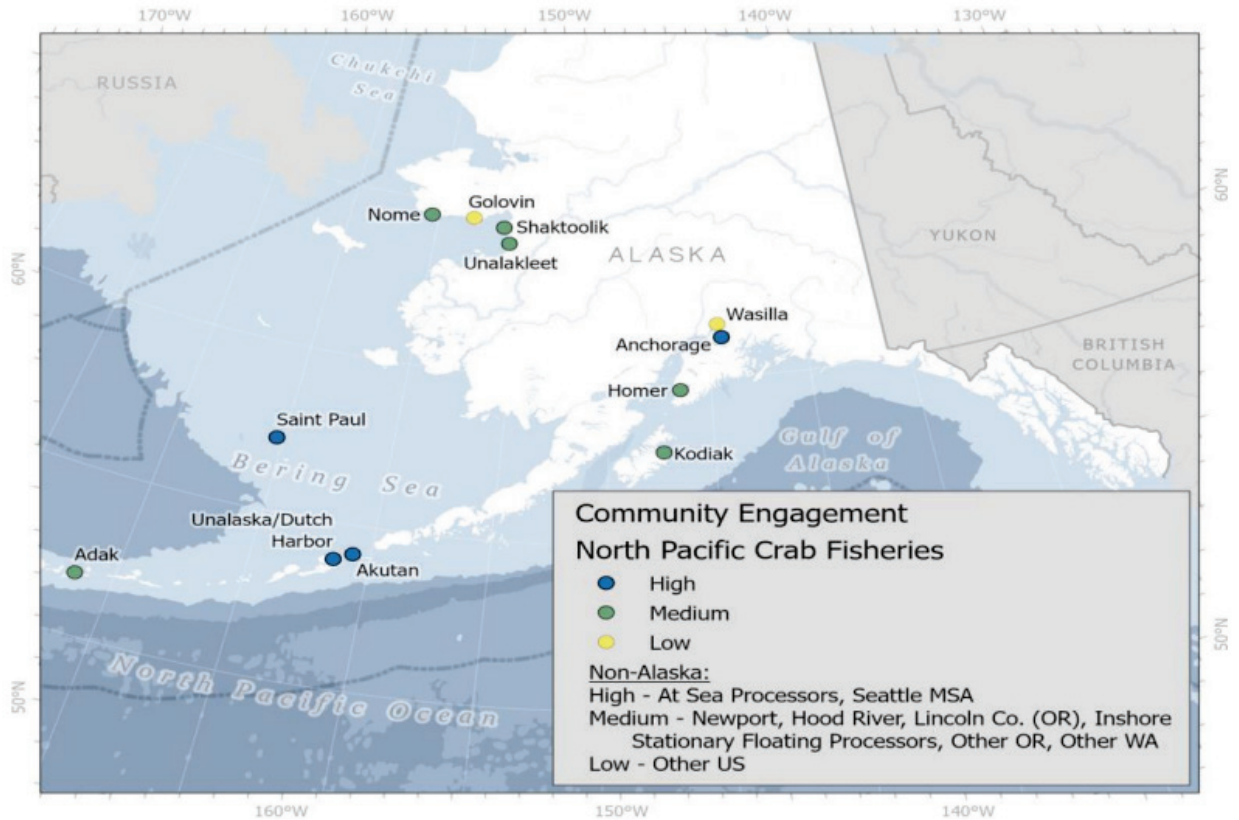


Figure 4-6: 2022 Community Engagement in the North Pacific Crab fisheries, ranked from low-high.
Source: 2023 ACEPO Report

In 2021, the FMP BSAI crab fisheries an active fleet of 67 catcher vessels and two catcher processors, and landed and processed at 15 processing facilities throughout the region. Commercial crab fisheries blossomed in the 1950s with the market of king crab fisheries in the Bering Sea, but today many of the stocks are in a depressed state. The declines in Bering Sea crab fisheries and the subsequent closures drastically affected fishermen as well as the social, cultural, and economic wellbeing of fishing communities, including economic dependence, social networks, food security, and identity. Of the 40 communities assessed in the ACEPO report from 2000-2021, only 14 had any FMP crab landings in their community while 36 had a resident who owned a vessel that participated in FMP crab fisheries.

The results if the commercial harvesting engagement principal components factor analysis (PCFA) from the 2023 ACEPO report, found that three communities were primarily engaging in crab harvesting: Seattle, Kodiak and Anchorage, ranked highest to lowest respectively. Similarly, the commercial processing engagement PCFA found that Akutan, Unalaska/Dutch harbor, King Cove, Nome, and St. Paul were most actively participating in crab processing from 2000-2021. A detailed summary of communities engaged in commercial crab fisheries can be found in Appendix C.

5 Relationship to Applicable Law and Other Fisheries

5.1 Magnuson-Stevens Act and Other Applicable Federal Law

The 10 National Standards of the Magnuson- Steens Fishery Conservation and Management Act are detailed below:

1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.
2. Conservation and management measures shall be based upon the best scientific information available.
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.
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 United States 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.
5. Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.
6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.
7. Conservation and management shall, where practicable, minimize costs and avoid unnecessary duplication.
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.
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.
10. Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

5.2 State of Alaska Management Structure

Institutions: The State Organizational Act of 1959 provided for Alaska Statutes, Title 16, which deals with Alaska Fish and Game Resources. Article 1 provides for a Department of Fish and Game whose principal executive officer is the Commissioner of Fish and Game. The Commissioner is appointed by the Governor for 5 years. The Commercial Fisheries Division was established to manage all commercially harvested fish species in Alaska. The Division is headed by a director who supervises four regional supervisors. The regions are further separated into management areas. Area management biologists are responsible for collecting catch data and monitoring fisheries in their areas. A Subsistence Section within the Commissioner's Office was established to document subsistence needs and utilization and to make recommendations for developing regulations and management plans to ensure subsistence use preference.

The enforcement of fish and game laws and regulations is provided by ADF&G and the Alaska Department of Public Safety (ADPS). The fish and wildlife protection officers of the ADPS operate independently of the ADF&G, although communication between the two departments is maintained and activities are coordinated.

Jurisdiction: ADF&G asserts management authority over all migratory fish and shellfish species which enter and leave territorial waters of the State, including the migratory fish and shellfish taken from State waters which are indistinguishable, in most instances, from those taken from adjacent high seas areas. Regulations governing migratory fish and shellfish cover both areas and are enforced by the State's landing laws. These landing laws prohibit the sale or transportation within State waters of migratory fish and shellfish taken on the high seas unless they were taken in accordance with State regulations.

The Fisheries Regulatory Process: The Alaskan system has a seven-member Board, composed of fishermen and other businessmen appointed by the Governor, which considers both public and staff regulatory proposals in deciding on regulatory changes. The Board is required by law to meet or hold a hearing at least once a year in each of the following areas of the State in order to assure all people of the State ready access to the Board: (a) Upper Yukon-Kuskokwim-Arctic, (b) Western Alaska (including Kodiak), (c) South Central, (d) Prince William Sound (including Yakutat), and (e) Southeast. Since the late 1960s, the Board, and before it, the Board of Fish and Game, has usually held a minimum of two meetings annually to adopt changes in the fisheries regulations. The fall Board meeting, usually held in early December, considers proposals for changes in sport fishing regulations and in commercial and subsistence finfish regulations. A spring Board meeting, usually held in late March or early April, considers commercial and subsistence shellfish regulatory proposals. Regulations which may be adopted by the Board cover seasons and areas, methods and means of harvesting, quotas, and times and dates for issuing or transferring licenses and registrations.

Advisory committees, composed of people concerned about the fish and game resources of their locality, serve as local clearinghouses and sources of proposals for Board consideration. Following submission of advisory committees and public proposals, ADF&G staff members review the proposals and redraft the wording, when necessary, to conform to the style required. ADF&G also submits proposals for the Board's consideration.

In adopting new regulations, the Board follows Alaska's Administrative Procedure Act. This act has several requirements: At least 30 days prior to the adoption of new regulations, a notice giving the time and place of the adoption proceedings, reference to the authority under which the regulations are proposed, and a summary of the proposed action, must be published in a newspaper of general circulation and sent to all interested people who have asked to be informed of the proposals. During the proceedings, the public must be given an opportunity to testify on the proposed changes. If a new regulation is adopted, it must be submitted to the Lieutenant Governor through the Attorney General's office. Thirty days after being filed with the Lieutenant Governor, the new regulation becomes effective. Because of these requirements, new regulations usually do not become effective until about 2 months after being adopted by the Board. Regulatory flexibility is given to the Commissioner of Fish and Game and to his authorized designees to adjust seasons, areas, and weekly fishing periods by emergency order.

The requirements outlined in the preceding paragraph do not apply in the case of emergency regulations, which may be adopted if needed for the immediate preservation of public peace, health, safety, or general welfare. An emergency regulation remains in effect 120 days unless it is adopted as a permanent regulation through the procedure described above. Emergency regulations have the same force and effect as permanent regulations. The Board has delegated authority to the Commissioner to adopt emergency regulations where an emergency exists as described in AS 44.62.250.

Appeals to the Board of Fisheries

Reconsideration of issues during a meeting: During a Board meeting, any Board member may move to reconsider an issue regardless of how the member voted on the original issue. Board Policy #80-78-FB requires that the motion be made prior to the adjournment of the meeting, that the motion be supported with new evidence, unavailable at the time of the original vote, and that public notice be given as to when reconsideration will occur.

Petitions to the Board: Under Section AS 44.62.220, an interested person may petition the Board for the adoption or repeal of a regulation. Upon receipt of a petition requesting the adoption, amendment or repeal of a regulation, the Board shall, within 30 days, deny the petition in writing or schedule the matter for public hearing. The Board and the Board of Game adopted a Joint Board Petition Policy which limits the scope of petitions they are willing to act upon outside of the normal regulatory cycle. The Joint Board recognized that in rare instances extraordinary circumstances may require regulatory changes outside this process. Therefore, it is the policy of the Board and the Board of Game that petitions will only be accepted if the problem outlined in the petition results in a finding of emergency. In accordance with State policy (AS 44.62.270), emergencies will be held to a minimum and rarely found to exist. Alaska Statute 44.62.250 specifies that in order to adopt emergency regulations, the agency must find that it is necessary for the immediate preservation of the public peace, health, safety, or general welfare. If such a finding is made, the agency adopting the emergency regulation shall submit a copy to the Lieutenant Governor for filing and for publication in the Alaska Administrative Register. Notice of adoption shall be given within five days of the adoption. Failure to give notice within ten days automatically repeals the regulation. For fish and game regulations, the Boards determined that an emergency is an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners since the resource would be unavailable in the future.

In 1995, the Board of Fisheries modified its petition policy for category 2 measures in the BSAI king and Tanner crab FMP (see State Regulation 5 AAC 39.998). The Board of Fisheries recognizes that in rare instances, circumstances may require regulatory changes outside the process described in 5 AAC 96.625(b) - (d). Notwithstanding 5 AAC 96.625(f), a petition for a regulatory change may be submitted under this section and 5 AAC 96.625(a) for a Category 2 management measure in a Bering Sea/Aleutian Islands king or Tanner crab fishery described in the federal Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands. It is the policy of the Board of Fisheries that a petition submitted under this section will be denied and not scheduled for hearing unless the petition:

1. addresses a Category 2 management measure and is filed within 30 days from the date that the board adopted that Category 2 management measure;
2. presents an issue that is not solely allocative; and
3. presents new legal, biological, or management information that indicates the regulation may not be consistent with the federal FMP."

Appeals to the Commissioner of Fish and Game

Petitions: Board Policy #79-53-FB delegates authority to the Commissioner to adopt emergency regulations, during times of the year when the Board is not in session. The Commissioner may adopt, in accordance with the Administrative Procedure Act (AS 44.62), an emergency regulation where an emergency exists as described in AS 44.62.250. All emergency actions shall, to the full extent practicable, be consistent with Board intent. The Commissioner is further required to consult, if possible, with members of the Board to obtain their views.

In-season Management Actions: Within 5 days after the closure of any registration area, an individual holding a king or Tanner crab permit issued by the Commercial Fisheries Entry Commission or the owner of any vessel registered to that area may formally request the commissioner to reopen the area. The commissioner shall personally review pertinent information on the condition of crab within the area, and shall formally announce his decision within 14 days of the request. 5AAC 34.035(d), 35.035(d).

Judicial Review: The APA in Section 44.62.300 provides for court review of regulatory actions of the Board or commissioner. An interested person may get a judicial declaration on the validity of a regulation by bringing an action for declaratory relief. All actions are to be brought in the Superior Court. The court may declare the regulation invalid for a substantial failure to comply with required administrative procedures (AS 44.62.010-44.62.320) or, in the case of an emergency regulation or order of repeal, upon the grounds that the facts recited in the statement do not constitute an emergency under AS 44.62.250.

5.3 AFA sideboard restrictions

On October 21, 1998, the President signed into law the American Fisheries Act (AFA) which mandated sweeping changes to the conservation and management program for the pollock fishery of the BSAI and to a lesser extent, affected the management programs for the other groundfish fisheries of the BSAI the groundfish fisheries of the GOA, the king and Tanner crab fisheries of the BSAI, and the scallop fishery off Alaska. Sideboards in the CR Program (Section 3.4) discourage spillover activity that former crab vessels may have had after the implementation of the program, in order to protect historical participants of other fisheries. In the development of the program, the Council included sideboards to protect harvesters in GOA groundfish fisheries from the potential for increased effort from former participants in the Bering Sea snow crab fisheries.

Revisions to the Crab Sideboards for the GOA Pacific Cod and Pollock Fishery to exempt some vessels that demonstrated historical participation in these non-crab fisheries occurred per Amendment 34 (76 FR 35772). Amendment 45 to the BSAI king and Tanner crab created, for a limited period, a regulatory process for NMFS to permanently remove Pacific cod sideboard limits, that are applicable to some participants in the Central GOA) and Western GOA hook-and-line catcher/processor sectors. This amendment was necessary after the Pacific cod sector splits changed impact of the sideboards on the former crab vessels (80 FR 28540). This action is necessary to provide participants in the Central and Western GOA hook-and-line catcher/processor sectors with an opportunity to cooperatively coordinate harvests of Pacific cod through private arrangement to the participants' mutual benefit, which would remove the need for sideboard limits in these regulatory areas.

5.4 Fishery Impact Statement

The Magnuson-Stevens Fishery and Conservation Management Act requires that a fishery management plan (FMP) include a fishery impact statement that assesses, specifies, and describes the likely effects of the FMP measures on participants in the fisheries and fishing communities affected by the FMP. The FMP has instituted a CR program in the crab fisheries. The most significant structural change resulting from this rationalization program is the allocation of the crab resource. This allocation is designed to eliminate the race for fish and allow for more efficient, safer crab fisheries. A detailed analysis of the effects of the FMP on the human environment, including fishery participants and fishing communities, was conducted in the *Bering Sea Aleutian Islands Crab Fisheries Final Environmental Impact Statement* (NMFS 2004), incorporated herein by reference. The 2010 5-year CR program review, incorporated herein by reference, also detailed the subsequent impacts of implementation of the CR program.

Crab program reviews are initiated every 7 years, as required by MSA and documented in Section 3.4, and provide an assessment of performance metrics that better detail fishery performance and may provide insight into the potential effects to the fishery following implementation the rationalization program; although direct impacts are hard to quantify as several other variables occur concurrent to the ongoing fisheries. The most recent CR program review is scheduled for 2024. While there has not been a more recent EIS conducted, the recent CR program reviews provide a snapshot of current fishery performance metrics that align with the MSA requirements of a fishery impact statement.

Below is a summary finding of the impacts of implementing the CR program in the 2004 EIS, and the 2010 CR program review.

- Increased social and economic benefits through the promotion of privilege-based allocations to individuals, sectors, and communities. For this reason, it is likely to increase the commercial value generated from the crab fisheries.
- Removal of the time pressure associated with the race for fish would permit harvesters to reduce bycatch by fishing more selectively and allowing longer pot soaks, but with fewer pots¹⁴ which allows gear to sort harvests. The removal of the time pressure should also allow participants to search longer for pots, reducing lost pots and associated mortality.
- The elimination of the race for fish resulted in more spatial dispersion, changes to processing patterns, and changes to temporal pressures on harvesting and processing resulting in longer seasons and slower fishing¹⁴.
- The FMP's implementation of rationalization is also expected to increase consumer benefits and resulted in increased health and safety of participants such as: a more experienced crew, less fatigued crew, and weather-dependent fishery safety operations¹⁴.
- A major impact of the CR program was the immediate and significant consolidation of the number of vessels participating in the fisheries due to sidelining of less efficient vessels. Prior to implementation, many vessels fished to maintain historic interests in the crab fisheries¹⁴.

The FMP has adopted a variety of management measures to promote the sustainability of the crab fisheries and dependent fishing communities.

1. Management measures to account for uncertainty ensure the sustainability of the managed species by maintaining a spawning stock biomass for the target species with the potential to produce sustained yields.
2. The transition to privilege-based management in the short term could disrupt stability, but in the long term, the stability of fisheries would be increased in comparison to a derby-style fishery.
3. Communities would also tend to experience an increase in economic stability as a result of built-in community protections resulting from privilege-based management programs.

In addition to Crab Program reviews, all Council amendment analyses contain a fishery impact section whereby the potential impacts to the fishery, fishing participants and fishing communities are assessed in detail. The Council also receives annual reports from the National Institute for Occupational Safety and Health (NIOSH) for updates on the status of health and safety for commercial fishing and seafood processing. The Coast Guard also provides frequent reports to the Council on the occupational safety of fishing vessels and safety of fishing participants.

¹⁴ Notated in the 5 year CR Program Review ([NPFMC, 2010](#))

6 References

This section contains references that may assist the reader in evaluating the FMP. Section 6.1 describes the sources of available data regarding the BSAI crab fisheries, including annually updated reference material. A list of the literature cited in the FMP is included in Section 6.

6.1 Sources of Available Data

Although every effort is made to keep the FMP updated with recent descriptions of the stocks and fisheries, the availability of new data far exceeds the ability of the North Pacific Fishery Management Council (Council) and National Marine Fisheries Service (NMFS) to amend the FMP. As a result, in some cases, it may be more expeditious to access the regularly updated reference material directly in order to gain a current picture of the status of the crab fisheries. The Council (Section 6.1.1), NMFS Alaska Fisheries Science Center (AFSC) (Section 6.1.2), and NMFS Alaska Region office (Section 6.1.3), and Alaska Department of Fish and Game (Section 6.1.4) each produce an abundance of reference material that is useful for understanding the crab fisheries. The sections below provide an overview of the types of reports and data available through the various organizations and their websites.

6.1.1 North Pacific Fishery Management Council

Stock Assessment and Fishery Evaluation Report

The Stock Assessment and Fishery Evaluation (SAFE) report is compiled annually by the BSAI Crab Plan Team, which is appointed by the Council. The sections are authored by AFSC and State of Alaska scientists. As part of the SAFE report, a volume assessing the Economic Status of the Crab Fisheries off Alaska is also prepared annually, as well as a volume on Ecosystem Considerations.

The SAFE report provides information on the historical catch trend; estimates of the maximum sustainable yield of the crab complex, as well as its component species groups; assessments on the stock condition of individual species groups; assessments of the impacts on the ecosystem of harvesting the crab complex at the current levels given the assessed condition of stocks, including consideration of rebuilding depressed stocks; and alternative harvest strategies and related effects on the component species groups.

The SAFE report updates the biological information base necessary for multispecies management. It also provides readers and reviewers with knowledge of the factual basis for (TAC decisions, and illustrates the manner in which new data and analyses are used to obtain individual species groups' estimates of acceptable biological catch and maximum sustainable yield.

Copies of the most recent SAFE reports are available online (see below), and by request from the North Pacific Fishery Management Council, 1007 W. 3rd Avenue, Suite 400, Anchorage, Alaska, 99501.

Much of the information produced by the Council can be accessed through its website, to be found at: <https://www.npfmc.org/>

The information available through the website includes the following.

- FMPs
- Meeting agendas, briefing materials, and reports: annual quota specifications, amendments to the FMPs or implementing regulations, and other current issues are all discussed at the five annual meetings of the Council, and published on the Council's eAgenda site. Meeting agendas, including briefing materials where possible, and newsletter summaries of the meeting are available on the website, as well as minutes from the meetings.

6.1.2 NMFS Alaska Fisheries Science Center

Much of the information produced by the AFSC can be accessed through its website, to be found at: <http://www.afsc.noaa.gov/>

The information available through the website includes the following.

- Species summaries: a summary of each crab species is available online, including AFSC research efforts addressing that species where applicable.
- Issue summaries: a summary of major fishery issues is also available, such as bycatch or fishery gear effects on habitat.
- Research efforts: a summary of the research efforts for each of the major AFSC divisions is provided on the website.
- Groundfish Observer Program: the homepage describes the history of the program and the sampling manuals that describe, among other things, the list of species identified by observers.
- Survey reports: the crab stock assessments are based in part on the independent research surveys that are conducted annually, biennially, and triennially in the management areas. Reports of the surveys are made available as NMFS-AFSC National Oceanic and Atmospheric Administration (NOAA) Technical Memoranda, and are available on the website; the data maps and data sets are also accessible.
- Publications: the AFSC Publications Database contains more than 4,000 citations for publications authored by AFSC scientists. Search results provide complete citation details and links to available on-line publications.
- Image library: the website contains an exhaustive library of fish species.

6.1.3 NMFS Alaska Region

Much of the information relevant to BSAI crab fisheries produced by NMFS Alaska region can be accessed through its website, to be found at:

<https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/bering-sea-and-aleutian-islands-bsai-crab-fisheries>

The information available through the website includes the following.

- Regulations: the FMP's implementing regulations can be found on the Alaska region website, as well as links to the Magnuson-Stevens Act, the American Fisheries Act, the International Pacific Halibut Commission, and other laws or treaties governing Alaska's fisheries.
- Catch statistics: inseason and end of year catch statistics for the groundfish fisheries can be found dating back to 1993, or earlier for some fisheries; annual harvest specifications and season opening and closing dates; and reports on share-based fishery programs (such as the individual fishing quota program for fixed-gear sablefish).
- Status of analytical projects: the website includes pages for the many analytical projects that are ongoing in the region.
- Habitat protection: maps of essential fish habitat, including a queryable database; status of marine protected areas and habitat protections in Alaska.
- Permit information: applications for and information on permits for Alaska fisheries; data on permit holders.
- Enforcement: reports, requirements, and guidelines.
- News releases: recent information of importance to fishers, fishery managers, and the interested public.

The website also links to the national NMFS website, which covers national issues. For example, NMFS-wide policies on bycatch or improving stock assessments, may be found on the national website. Also,

NMFS produces an annual report to Congress on the status of U.S. fisheries, which can be accessed from the website.

6.1.4 Alaska Department of Fish and Game

Much of the information relevant to BSAI crab fisheries produced by ADF&G can be accessed through its website, to be found at:

<https://www.adfg.alaska.gov/index.cfm?adfg=commercialbyareaaleutianislands.shellfish#fishery>

The information available through the website includes the following:

- Species information profiles including identification guides.
- An overview of Management authority delegated to the state including TAC announcements, harvest overviews and management area maps.
- Summary of the Crab observer program, including annual reports to the crab observer oversight taskforce (COOTF), and statewide commercial operator’s annual reports (COAR) for the statewide crab fisheries
- An overview of permits and licensing requirements such as entry permits, crewmember licenses, vessel registration, etc.
- Reporting resource details such as fish tickets, eLanding.
- A summary of ongoing research including annual stock assessment surveys conducted by ADF&G.

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