

Eastern Aleutian Islands Golden King Crab Facility Use Cap Discussion Paper

January 24, 2023¹

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1 Introduction

In June 2021, the Council reviewed several public comment letters proposing changes in the Aleutian Islands golden king crab (AIGKC) fishery. In response, the Council made a motion for a discussion paper to address the two issues raised:

- 1) Identify potential regulatory or administrative changes that would allow Eastern Aleutian Islands golden king crab (EAG) and Western Aleutian Islands golden king crab (WAG) IFQ to be issued or fished prior to August 1. Changes could include regulatory changes to the crab fishing year for golden king crab or other administrative or regulatory changes that would allow golden king crab IFQ to be issued or fished earlier in the year. The paper should include potential impacts on other Crab Rationalization program fisheries including cost recovery fees.
- 2) Review current EAG facility use caps and discuss impacts of removing or changing them to recognize custom processing arrangements. The paper should include the history and intent of facility use caps and a discussion of the current processing conditions related to facility use caps in the EAG fishery.

In October 2022, the Council bifurcated these issues into separate discussion papers.

This discussion paper addresses the second proposal to remove the EAG facility use cap in order to provide more market opportunity for independent PQS/ IPQ holders (i.e., not specifically affiliated with a processor). The Council received several public comment letters² which all support a proposal. The letters highlight a live crab market opportunity at one particular processor in Dutch Harbor and a desire for crab harvesters and independent PQS holders to have access to this opportunity for the custom

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² EAG facility use cap proposals: [City of Unalaska](#), [Poulsen](#), [Unisea](#), [Minor](#), [ICE](#)

processing of their EAG IPQ. However, they have found the current 60% facility use cap to be constraining this opportunity.

There is some nexus between the season start date action and facility use cap issue, because the earlier the season the better the opportunity to access the live market (E. Poulsen, oral public comment, 6/16/2021).

2 Background on the CR Program and the EAG Fishery

Appendix 1 to this discussion paper includes more detailed background information on the BSAI Crab Rationalization (CR) Program management and harvesting and processing particularly for the EAG and WAG fisheries. This section summarizes some of the key CR Program components for the proposed action and highlights the EAG fishery specifically.

In August of 2005, fishing in the Bering Sea and Aleutian Island crab fisheries began under a new share-based management program (the “rationalization program”). The program is unique in several ways, including the allocation of processing shares (PQS) corresponding to a portion of the harvest quota share (QS) pool. Under the program, 90 percent of the annual catcher vessel owner harvest share allocation is issued as “Class A” individual fishing quota (IFQ). Crab harvested with Class A IFQ, which make up 90 percent of the CVO share allocation, must be delivered to the holder of IPQ (i.e., the annual exclusive processing privilege which corresponds to PQS). The remaining 10 percent of harvest made with CVO shares (harvest made with Class B IFQ) are open to competition among all processors (including those who do not hold IPQ). Annual allocations arising from C share QS are subject to the same competition that exists for Class B IFQ.

2.1 Background on the PQS and Facility Use Cap

When the Council recommended the BSAI CR Program, it expressed concern about the potential for excessive consolidation of both harvesting QS and PQS. Excessive consolidation could have adverse effects on competitive crab markets, price setting negotiations between harvesters and processors, employment opportunities for harvesting and processing crew, tax revenue to communities in which crab are landed, and other factors considered.

As one component to addressing this concern, the CR Program limited the amount of PQS that a person can hold, the amount of individual processing quota that a person can use, and the amount of IPQ that can be processed at a given facility. These limits are commonly referred to as use caps.

Use caps detailed at **50 CFR 680.42(b)** limited a person to holding no more than 30 percent of the PQS initially issued in the fishery, and to using no more than the amount of IPQ resulting from 30 percent of the PQS initially issued in a given fishery, with a limited exemption for persons receiving more than 30 percent of the initially-issued PQS (see Appendix 2 for relevant Federal regulations). Additionally, originally, no processing facility could be used to process more than 30 percent of the IPQ issued for a crab fishery as specified at **§680.7(a)(8)**.

For all CR fisheries, the 30% caps on the *use* of PQS and IPQ originally included summing the total amount of IPQ that is (1) held by that person; (2) held by other persons who are affiliated with that person through common ownership or control; and (3) any IPQ crab that is custom processed at a facility an IPQ holder owns. Custom processing is defined **§680.2** and means processing of crab by a person undertaken on behalf of another person.

The term “affiliation” is defined in regulations at **§680.2**, as a relationship between two or more entities in which one directly or indirectly owns or controls a 10 percent or greater interest in, or otherwise controls, the other entities. An entity may be an individual, corporation, association, partnership, joint-stock

company, trust, or other type of legal entity. The CR Program uses a “10-percent rule” to monitor holding and use caps for PQS and IPQ for non-CDQ group CR Program participants, and a “individual and collective rule” for CDQ group CR Program participants as recommended by the Council. Under this attribution method, non-CDQ group persons who hold at least 10 percent equity in the holding entity have 100% of their PQS and IPQ holdings attributed to that entity. CDQ groups which hold at least 10 percent equity in the holding entity have their PQS and IPQ holdings attributed to that entity proportional to the CDQ group’s ownership of that entity (for example, a CDQ group that owned 15% of a processor would have 15% of that CDQ group’s PQS and IPQ holdings attributed to that processor).

2.2 Amendments to Exempt Custom Processing from IPQ Use Caps

Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) in 2006 included a provision to exempt custom processing in the North region of the Bering Sea *C. opilio* fishery from IPQ use caps established under the CR program. The Council took action to make this change for under **Amendment 27** (effective 6/29/09), but under the same amendment package the Council extended the exemption to several other crab fisheries (now cited at **§680.42(b)(7)**), including:

- Western Aleutian Islands golden king crab fishery provided that IPQ crab is processed west of 174° W. long;
- Western Aleutian Islands red king crab fishery
- Eastern Aleutian Islands golden king crab fishery
- St. Matthews blue king crab fishery
- Pribilof red and blue king crab fishery

Effectively, this change means IPQ crab that are custom processed for an unaffiliated IPQ holder (who does not have a 10 percent or greater direct or indirect ownership interest in the shoreside crab processor or stationary floating crab processor) would no longer be counted against the IPQ use cap of the owner of the processing facility. A person who holds IPQ and who owns a processing facility would be credited only with the amount of IPQ crab used by that person, or any affiliates of that person, when calculating IPQ use caps. The exemption is limited to processing that occurs in communities to protect community interests. These exemptions are intended to allow consolidation beyond the caps in fisheries and regions that pose particular economic challenges to processors.

Relatedly, **Amendment 41** (effective 6/14/13) established a process whereby holders of regionally designated individual fishing quota (IFQ) and IPQ in six CR Program fisheries may receive an exemption from regional delivery requirements in the North or South Region in extenuating circumstances. If these circumstances were triggered, this action allowed for additional exemptions for crab that is custom processed from counting towards IPQ use caps.

The eastern *C. bairdi* Tanner (EBT) and Western *C. bairdi* Tanner (WBT) fisheries were added to the list of fisheries that were exempt from custom processing counting towards IPQ use caps through **Amendment 47** (effective 1/19/17). EBT and WBT fisheries were not originally listed as exempt under Amendment 27 because these fisheries are not subject to regionalization and, therefore, the need to exempt custom processing arrangements from the IPQ use cap did not appear necessary because these crab could effectively be delivered to any processor with matching IPQ in any location. However, in December 2015, the Council voted to request that NMFS promulgate an emergency rule to temporarily allow a custom processing exemption to the IPQ use caps for the 2015/2016 crab fishing year in the EBT and WBT crab fisheries. The Council determined that the unforeseen exit of one processor from *C. bairdi*

crab processing resulted in less than the minimum number of processors needed to process all of the Tanner crab IPQ without exceeding the IPQ use caps. In recommending the emergency rule, the Council recognized that the processor consolidation that had occurred in the *bairdi* crab fisheries would likely continue to constrain processors operating in the *bairdi* crab fisheries after the emergency rule expires. To address this situation, at its June 2016 meeting, the Council took final action to exempt custom processing arrangements for BS *bairdi* Tanner crab from processing quota use caps.³

Through **Amendment 27**, the Council recommended that crab that are custom processed in these fisheries not apply against the IPQ use cap of a processing facility owner because these fisheries historically have relatively small TACs when they are open to fishing, and consolidation of processing at one or a few facilities would improve the economic efficiency of harvesters and processors without having an adverse effect on community interests within the regions where those crab are consolidated. However, processors owning facilities west of 174° W. long. expressed concern about their ability to effectively compete for EAG and WAI specifically, if all of the catch were processed in one facility east of 174° W. long.

Therefore, in addition to exempting custom processing from counting towards the IPQ use caps, **Amendment 27** also created a new **facility use cap** for EAG and WAI that was intended to include custom processing east of 174° W. long. Based on this Council action through **Amendment 27** a prohibition at §680.7(a)(9) now states it is unlawful:

For any shoreside crab processor or stationary floating crab processor east of 174 degrees west longitude to use more than 60 percent of the IPQ issued in the EAG or WAI crab QS fisheries, unless that IPQ meets the requirements described in §680.42(b)(8).⁴

The Proposed Rule (73 FR 54346) for **Amendment 27** stated, “this change to the regulation seeks to prevent a potentially undesirable consolidation on the number of markets available to harvesters, a scenario that is more likely in these fisheries given their historically relatively small TACs compared to other crab fisheries. In addition, this provision would minimize the potentially adverse effects on processing facilities west of 174° W. long. if all of the IPQ were consolidated in processing facilities east of 174° W. long.”

Compliance with the processing share caps and facility use caps is identified after processing has occurred and generally on an ad hoc basis. NMFS RAM Division calculates an individual or entities’ IPQ use cap by summing the total amount of IPQ that is 1) held by that person/entity, 2) held by other persons/entities who are affiliated with that person/entity through common ownership or control, and 3) any IPQ crab that is custom processed at a facility an IPQ holder owns, with exemptions for the specific crab fisheries. The facility use cap considers all of the IPQ used at a facility by adding all of the IPQ used by any person, whether custom processed or not, at a facility.

³ Some alternatives to exempting custom processing were considered during the development of the emergency rule and Amendment 47 including having NMFS convert *bairdi* crab Class A IFQ into *bairdi* crab Class B IFQ. Class B IFQ does not accrue to the IPQ use caps when processed and can be delivered to any crab processor without the need for matching IPQ. While this alternative would have provided relief from the IPQ use caps for the 2015/2016 crab fishing year under the emergency rule, harvesters expressed concerns over the impacts this conversion would have on the price harvesters would be paid for delivering *bairdi* crab Class B IFQ. In addition, some members of the public advocated that NMFS adjust the IPQ use caps in the *C. bairdi* crab fishery so that the caps are set at a high enough amount (e.g., 35 percent) so that all of the crab could be processed in existing facilities. However, the IPQ use caps are explicitly tied to the PQS ownership caps; adjusting the use caps would require changes to or, at the very least, examination of how that affects the ownership caps.

⁴ The reference to §680.42(b)(8) is citing the exemption for custom processing under regional delivery requirements.

2.3 The EAG Fishery

The Aleutian Island gold king crab (AIGKC) stock is managed as two separate fisheries, east and west of 174°W long (EAG and WAG, respectively), with a separate TAC set for each fishery (see Figure A.1 in Appendix 1). In recent years, three vessels have participated in each fishery (with one vessel diversified in both EAG and WAG; Table A.10 in Appendix 1). Since 2013/14, AIGKC harvesting vessels have all been catcher vessels, with processing occurring on shore (Garber-Yonts & Lee 2022). In the 2021/ 22 season, the EAG TAC was set at 3.61 million lb. The EAG vessels are typically able to harvest greater than 99% of the EAG TAC (Table A.11 in Appendix 1). These vessels have limited diversity in other fisheries, which primarily consists of participation in other crab fisheries (Bristol Bay red king crab and Bering Sea snow crab). They use longlined pots, with an average of about 2,000 pots registered to each vessel (K. Bush, 1/20/23, personal communication). The vessels rotate through the strings, resulting in significantly longer soak times than other CR fisheries as the vessel delivers a portion of the set to the shoreside processor.

In 2021/22, there were 32 EAG QS holders (Table A.3 in Appendix 1). The EAG CVO A shares are issued only as South designated and there are a small amount of CPO shares in the program (4.8% of the owner QS pool). In 2021/22 there were 10 CVC holders in the EAG fishery and no CPC shares were ever issued. Four CDQ groups currently hold EAG CVO harvesting quota, representing 32.23% of the total QS owner share pool (Table A.7 in Appendix 1). EAG harvesting quota is issued to five of the nine crab cooperatives before it is consolidated onto the three vessels (Table A.5 in Appendix 1).

In 2021/22 there were three facilities that processed EAG: one in Akutan and two in Dutch Harbor/ Unalaska (Table A.18 in Appendix 1). These were the communities that historically processed EAG prior to the implementation of the facility use cap under Amendment 27 (NPFMC 2009). In the last 12 years (since 2010), one additional processing facility in Adak, Anchorage, and Dutch Harbor each have also received deliveries of EAG. Data confidentiality requirements restrict displaying the amount of crab that has been landed at each facility or demonstrating how close each facility is to the 60% facility use cap.

However, as stated in the proposals submitted to the Council in June 2021, UniSea in Dutch Harbor has been near enough the EAG facility use cap in many years that it cannot accept addition custom processed EAG. This may be in part due to the PQS holdings of Royal Aleutian Seafoods Inc., a subsidiary of UniSea and the Registered Crab Receiving company described in the proposals. Royal Aleutian Seafoods was ‘grandfathered’ into the CR Program with EAG PQS above the PQS use cap due to historical processing of this crab species (45.4%). If the Royal Aleutian Seafoods IPQ resulting from this PQS is processed at the UniSea facility, this would allow only an additional 14.6% of the PQS pool be custom processed at this facility in that year. The proposals describe an additional 25% of the PQS pool being held by unaffiliated IPQ holders (i.e., unaffiliated with a processing facility). This amount can change annually depending on the PQS leasing arrangements and whether all PQS holders apply for and receive their IPQ in that year.⁵

While the owner of the processing facility may be the PQS holder as well, the prevalence of PQS holders relative to processing facilities (e.g., 10 EAG PQS holders whose quota was concentrated into 3 processing facilities in 2022/22; Table A.16 in Appendix 1) suggests consolidation of processing privileges through the leasing of PQS (i.e., the sale of IPQ) or through custom processing arrangements. In addition, PQS holders that are affiliated with a processing facility made still choose to enter into

⁵ There are a few scenarios in which not all PQS holders may receive IPQ in a year, for instance if they choose not to apply, if they apply late or do not qualify based on outstanding . In these instances, the associated pounds would be redistributed among the IPQ holders.

leasing or custom processing arrangements in order to process their PQS in situations where it may be economically advantageous.⁶

3 Possible Actions and Expected Impacts

The proposed action would require amendments to Bering Sea/ Aleutian Islands king and Tanner crab Fishery Management Plan (Crab FMP) and corresponding Federal regulations at §680.7(a)(9).⁷ Action could include:

- Removing the of the prohibition so there is no longer a facility use cap in the CR Program. The only other fishery this regulation applies to, the Western Aleutian Islands red king crab (WAI) fishery, has been closed for commercial fishing since 2003/04.
- Deleting the "EAG" so the facility use cap still applies for WAI processed west of 174 degrees west longitude.
- Increase the facility use cap above 60%. The Council would need to determine an alternative level to set the facility use cap.

3.1 Preliminary Assessment of the Status Quo

Under no action, processing facilities east of 174 degrees west longitude would continue to be prohibited from using more than 60% of the IPQ issued in the EAG or WAI crab QS fisheries, regardless of IPQ ownership.

As previously stated, the purpose of this cap was to ensure that one processor east of 174° W. long did not process all of the EAG, since all of the PQS was designated for processing in the South region. While concerns were stated around the ability for processors west of 174° W. long to effectively compete for EAG and WAI specifically, the facility use cap does not require EAG be delivered to Adak (as a West regional delivery designation would). However, it does require that a least two physical plants process EAG. Since 2010, three to five physical plants have accepted deliveries of EAG in Akutan and Dutch Harbor with Adak only receiving deliveries of EAG in 2020 (Table A.18 in Appendix 1).

While some of the PQS for the WAG fishery does have a West regional delivery designation, operators west of 174° W. long (i.e., primarily located in Adak) have not been available for deliveries in all years. Annual exemptions from the West-designated regionally delivery requirement were approved in 2011/12-2016/17 and then again 2020/21 - 2022/23 for the WAG fishery based on processor availability.

Under the status quo, some unaffiliated IPQ holders (and by extension the harvested that have share-matched) may be constrained in their options for partnering with a facility for EAG custom processing. As described in the proposal, processing entities have been developing a live EAG crab market opportunity which may offer a premium price for harvesters and processors, as well as potentially benefitting communities through tax revenue. Current regulations may constrain access to this market for some IPQ and IFQ holders. If the facility in question is constrained by the facility use cap, these IPQ must be processed elsewhere.

⁶ In addition, for CR Program fisheries with a North/ South designation, a leasing or custom processing arrangement of this nature may also occur if the facility is located in the opposite region of the facility owner's PQS designation.

⁷ See Appendix 2 for the relevant regulations.

3.2 Preliminary Assessment of the Proposed Action

Under an action alternative, regulations at §680.7(a)(9) stipulating the 60% facility use cap for EAG would be removed or amended, such as in one of the ways described above.

Through any of these possible actions, regulations at §680.42(b) would continue to define the 30% IPQ use caps. However, based on Amendment 27 and regulations at §680.42(b)(7)(ii)(A)(2) EAG IPQ crab that is custom processed (and unaffiliated) will not be counted towards this 30% cap. Conceivably, this means that all the EAG IPQ could be processed at one facility, depending on the continued degree of affiliation that may exist between IPQ holders who have an ownership interest in the facility and the number of IPQ holders that establish custom processing arrangements with a given facility owner.⁸

Use caps in general are intended to prevent excess consolidation in the CR Program. However, as demonstrated in the *C. bairdi* crab fisheries in 2015, while use caps can guarantee market space, it does not guarantee that processing facilities will be available. With rising costs of labor and materials, the extraordinary capital costs of operating a processing facility in the Aleutian Islands or Bering Sea represents a substantial barrier to entry for new processors. Combined with the current closures of the Bering Sea snow crab and Bristol Bay red king crab fisheries, it is unlikely that maintaining a facility use cap would alone motivate the continuation or the development of an additional processing facility able to receive EAG IPQ. Facilities that have recently received EAG are diversified with other crab and/or groundfish species.

While the proposal could allow for additional processing concertation among facilities, external factors may make this unlikely. The analysts assume that processors with PQS would continue to receive IPQ crab at the facilities they own, to maximize the throughput of crab and maintain the economic viability of processing operations. Therefore, unless EAG PQS is sold to more unaffiliated persons, IPQ may continue to be received and processed at multiple facilities in multiple communities. If the PQS is sold, 1% of the EAG PQS currently has a ROFR associated with Akutan and 91% of the EAG PQS has a ROFR associated with Unalaska. In this way, it is expected this proposed action would have minimal impacts on communities. If a premium price is able to be generated from the sale of live EAG, this may result in a greater share of tax revenue for the associated community.

Moreover, the ability for an unaffiliated IPQ holder to custom process EAG while relying on the current infrastructure of capital and labor, can provide EAG harvesters with increased processor competition and market opportunities, while increasing overall processor production efficiency. In addition to goals around preventing excess consolidation, the RIR for the CR Program acknowledged this benefit stating, “Notwithstanding issues concerning the purchase of processing shares by harvesters,⁹ custom processing could facilitate a more active processing market. If custom processing leads to entry to the processing sector, harvesters could have a broader market for selling their crab. Whether custom processing will facilitate a broader processing market cannot be predicted” (NPFMC/NMFS 2004, pp 481).

⁸ Under the right-of-first-refusal provisions a PQS holder may use the IPQ yielded by its PQS in any location that it chooses (provided it complies with regional landing requirements). However, ROFR is triggered on the sale of IPQ, if more than 20 percent of the PQS holder’s community-based IPQ in the fishery were processed outside the community by another company in 3 of the preceding 5 years. Therefore, an EAG PQS holder could have its IPQ custom processed outside of the ROFR-holding community, but if it leased its PQS to another entity outside of the community, after the 3rd year it would trigger the ROFR. See Appendix 1 for more detail on ROFR provisions.

⁹ The concerns referenced are related to the question of whether harvesters seeking vertical integration would have PQS market opportunities if shares were concentrated with few processors or an open market for PQS does not develop.

In this way removing the facility use cap may benefit EAG harvesters that are required to share-match. It may additionally benefit unaffiliated IPQ holder by providing them with more opportunity to custom process if, as described in the proposal for action, a facility is otherwise constrained by the cap. Specifically, in the case identified under the current proposal, harvesters and an unaffiliated IPQ holder are seeking access to a live market opportunity that is currently only available through one processing facility.

Increased competition within the processing sector due to more opportunity to custom process could have distributional impacts for owners of processing facilities. The removal of the cap could lead to a redistribution of custom processing activity from one plant to another. In this case, the redistribution of activity will have a processing efficiency benefit for both the shareholder and the facility receiving the exemption, but that benefit will be at a cost of a loss of processing by the facility losing processing activity.

Removing or modifying the facility use cap at **§680.7(a)(9)** does not preclude new facilities or new markets from developing. A new processor could ensure market shares by purchasing PQS or IPQ which would require harvesters to share-match pre-season. Additionally, a new processor could enter a fishery by accepting B or C shares or by purchasing landings of CDQ crab.

4 Next Steps

In response to one of the recent proposals related to the AIGKC fishery, this discussion paper provides the history and intent of the EAG facility use caps and includes a discussion of the current processing conditions related to facility use caps in the EAG fishery. In the next steps, the Council should consider the merits of regulatory action by considering its policy objectives for the CR Program and the National Standards. If the Council wished to continue with action, it may consider a purpose and need and set of alternatives for further analysis.

5 References

- Garber-Yonts, B. and J. Lee. 2022. Stock assessment and fishery evaluation report for the king and Tanner crab fisheries of the Gulf of Alaska and the Bering Sea/ Aleutian Islands Area: Economic status of the BSAI king and Tanner crab fisheries off Alaska, 2021. January 2022. Alaska Fisheries Science Center. Seattle, WA. Accessed at: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=9e166e8f-4e58-4522-973a-ca074306e42e.pdf&fileName=D7%20Crab%20Economic%20SAFE.pdf>
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- North Pacific Fishery Management Council. [NPFMC]. 2009. Secretarial Review Regulatory Impact Review and Final Regulatory Flexibility Analysis of a provision exempting certain custom processing from use caps on processor shares for a regulatory Amendment to implement Amendment 27 to the Fishery Management Plan for Bering Sea and Aleutian Islands king and Tanner crabs. April 2009. Anchorage, AK.
- NPFMC. 2017. Ten-year program review for the crab rationalization management program in the Bering Sea/ Aleutian Islands. January 2017. Anchorage, AK. Accessed at: https://www.npfmc.org/wp-content/PDFdocuments/catch_shares/Crab/Crab10yrReview_Final2017.pdf

Appendix 1: Background on the AIGKC Fisheries

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A. Background on the AIGKC Fisheries

The commercial crab fisheries in the BSAI, including the Aleutian Islands golden king crab (AIGKC) fisheries, are managed jointly by NMFS and the State of Alaska. The BSAI crab FMP specifies three categories of management measures for the king and Tanner crab fisheries in the BSAI. Category 1 measures are those that are specifically fixed in the FMP and require an FMP amendment to change. Category 2 measures are those that are framework-type measures which the State can change following criteria set out in the FMP. Category 3 measures are under complete discretion of the State of Alaska (see Table A.1).

Table A.1 Management measures implemented for the BSAI king and Tanner crab fisheries, as defined by the crab FMP, by category

Category 1: Fixed in the FMP	Category 2: Frameworked in the FMP	Category 3: Discretion of the State
Legal Gear Permit Requirements Federal Observer Requirements Limited Access Norton Sound Superexclusive Registration Area Essential Fish Habitat Habitat Areas of Particular Concern	Minimum Size Limits Guideline Harvest Levels Inseason Adjustments Districts, Subdistricts, and Sections Fishing Seasons Sex Restrictions Closed Waters Pot Limits Registration Areas	Reporting Requirements Gear Placement and Removal Gear Storage Gear Modification Vessel Tanks Inspections State Observer Requirements Bycatch Limits in Crab Fisheries Other

The Aleutian Islands king crab management area is Registration Area O (Figure A.1). The eastern boundary is the longitude of Scotch Cap Light (164°44.72'W long); the northern boundary is a line from Cape Sarichef (54°36'N lat) to 171°W long, north to 55°30'N lat; and the western boundary the United States–Russia Maritime Boundary Line of 1990. The AIGKC stock is managed as two separate fisheries, east and west of 174°W long (EAG and WAG, respectively), with a separate TAC set for each fishery.

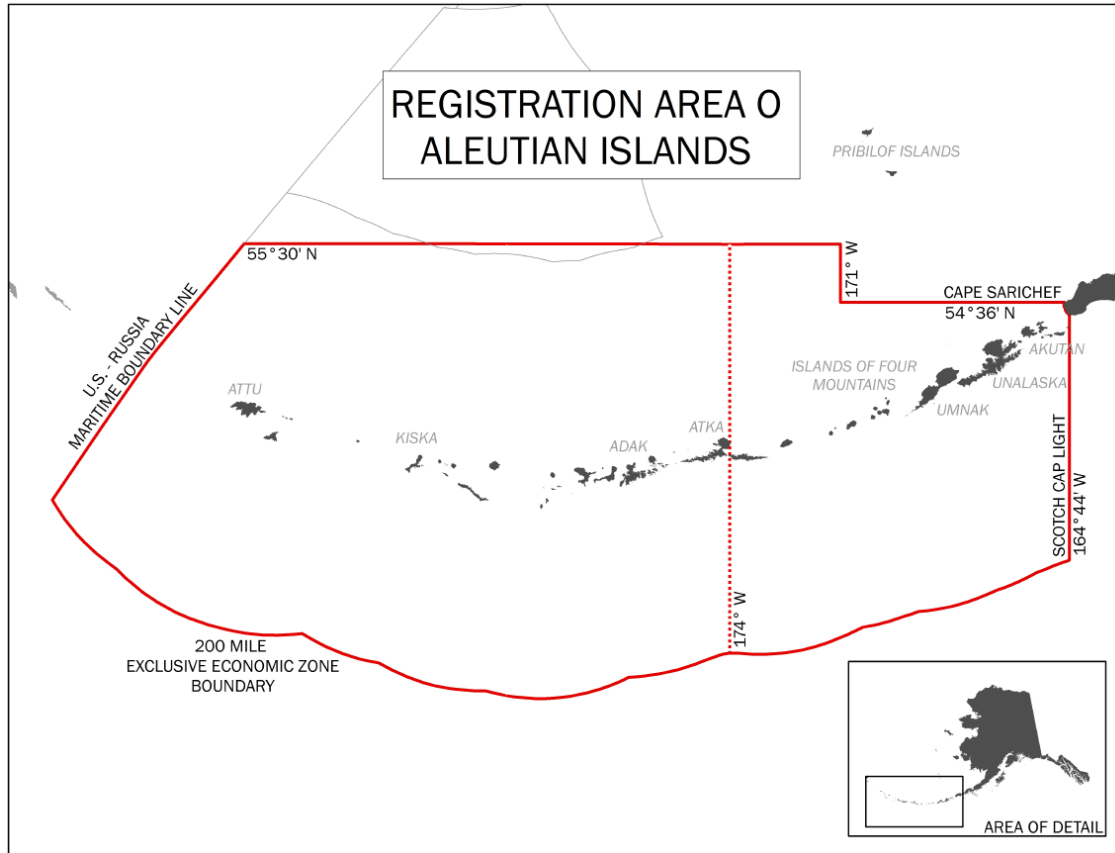


Figure A.1 Aleutian Islands, Area O, king crab management area

Source: ADF&G

A.1 Crab Rationalization Management

Nine of the BSAI crab fisheries¹ were rationalized in 2005, under the BSAI Crab Rationalization (CR) Program. The CR Program is a “voluntary three pie cooperative” program which allocates BSAI crab resources among harvesters, processors, and coastal communities. Program components include quota share (QS) allocations, processor quota share (PQS) allocations, individual fishing quota (IFQ) and individual processing quota (IPQ) issuance, quota transfers, use caps, crab harvesting cooperatives, protections for Gulf of Alaska groundfish fisheries, an arbitration system, monitoring, economic data collection, and Federal cost recovery fee collection. The following sections provide context for the management of the CR Program that is relevant to the proposed action. For more exhaustive detail on the management of the CR Program fisheries see Section 2 of NPFMC (2017) and Federal regulations at 50 CFR 680.

One of the main components of the CR Program was in establishing both harvester QS and PQS, which are revocable privileges that allow the holder to harvest or process a specific percentage of the annual

¹ This includes: 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, 4) Western Bering Sea Tanner crab (*C. bairdi*) – West of 166° W, 5) Pribilof Islands blue and red king crab, 6) Saint Matthew Island blue king crab, 7) Eastern Aleutian Islands (Dutch Harbor) golden king crab – East of 174° W, 8) Western Aleutian Islands (Adak) golden king crab – West of 174° W, and 9) Western Aleutian Islands (Petrol Bank District) red king crab – West of 179° W.

TAC in a CR Program fishery. Approximately 97% of the QS (referred to as “owner QS”) in each program fishery (see Figure A.2) were initially allocated to the License Limitation Program license holders based on their catch histories in the fishery. The remaining 3% of the QS (referred to as “C shares” or “crew QS”) were initially allocated to captains based on their catch histories in the fishery. These QS are issued annually as Individual Fishing Quota (IFQ), and PQS is issued annually as Individual Processing Quota (IPQ).

Catcher vessel owner IFQ are issued in two classes, Class A IFQ and Class B IFQ. Crab harvested using Class A IFQ are required to “share-match” with IPQ. This means crab harvested using Class A IFQ must be delivered to a processor holding unused IPQ. In addition, most Class A IFQ are subject to regional share designations, whereby harvests are required to be delivered within an identified region.

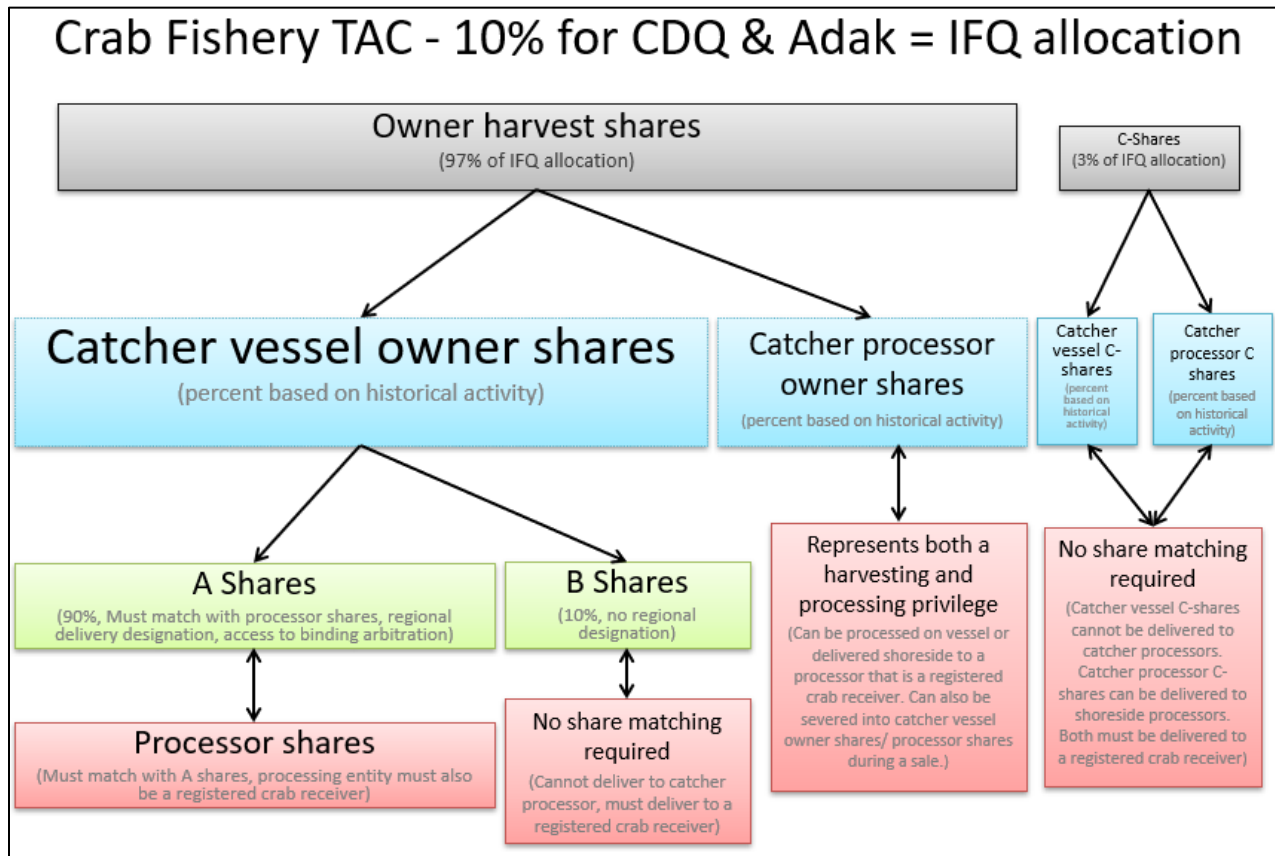


Figure A.2 Diagram of quota shares in the CR Program

Note: See BSAI Crab Rationalization Program ten-year review (NPFMC 2017) for more information on the categories of quota described in this figure.

A.1.1 Regional Delivery Requirements and Exemptions

Table A.2 identifies the regional delivery requirements for the CR Program. These delivery restrictions of Class A IFQ are intended to add stability to the processing sector 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 (RCR), except a catcher processor, 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.

There have been several amendments to allow for temporary exemptions from the regional delivery requirements. Amendment 37 provides an exemption from the regional landing requirement in the West region of the Western Aleutian Islands golden king crab fishery on the agreement of all holders of more than 20% of the QS pool, all holders of more than 20% of the PQS pool, and the communities of Adak and Atka (76 FR 35781; effective June 20, 2011). The amendment is intended to allow for the movement of deliveries in the event that processing capacity is unavailable in the West region. Annual exemptions from the West-designated regionally delivery requirement were approved in 2011/12- 2016/17 and then again 2020/21 - 2022/23 for the WAG fishery based on processor availability.

Effective June 14, 2013, the Council also approved Amendment 41 that established a process whereby holders of regionally designated IFQ and IPQ in six CR Program fisheries may receive an exemption from regional delivery requirements in the North or South Region (78 FR 28523). This regulatory action establishes a process that can mitigate disruptions in a CR Program fishery that prevent participants from complying with regional delivery requirements. For example, in the event of a strong ice pack around St. Paul Island, North-designated harvested crab might be stranded if there is not flexibility to allow processing to occur elsewhere. A privately signed framework agreement stipulates the circumstances under which relief is granted from regional delivery requirements. This temporary exemption could apply to Bristol Bay red king crab, Bering Sea Snow crab, St. Matthew’s blue king crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, and Pribilof Island red and blue king crab.

Table A.2 Regional designations in CR Program Fisheries AIGKC fisheries

Crab QS Fishery	North Region	South Region	West Region	Undesignated Region
EAG	x	x		
WAG			x	x
EBT				x
WBT				x
BSS	x	x		
BBR	x	x		
PIK	x			
SMB	x	x		
WAI		x		

Source: 50 CPIKFR 680.40(b)(2)(iii)

A.1.2 Community Right of First Refusal

To protect community interests, holders of most processor shares were required to enter agreements granting community designated entities a right of first refusal (ROFR) on certain transfers of those shares. Under the terms of the right, the community entity is permitted to acquire the shares (and any other assets included in the transaction) by agreeing to perform all terms of the transaction as the buyer.

The representative entity of any community that supported in excess of 3 percent of the qualified processing in any fishery, received the ROFR on the PQS (and derivative IPQ) arising from processing in that community. Four fisheries – the Eastern and Western Bering Sea *C. bairdi* and the Western Aleutian Islands red and golden king crab fisheries – are exempt from the ROFR provisions, as allocations of PQS in those fisheries were based on historic processing in other fisheries.

In the case of Community Development Quota (CDQ) communities, the representative entity holding the ROFR is the local CDQ group. In all other communities, the ROFR is held by an entity designated by the community. Based on the qualifying criteria, eight communities were eligible to have representative entities receive ROFR in the different fisheries governed by the CR Program: Unalaska, Akutan, King

Cove, St. Paul, St. George, Kodiak, Port Moller, and False Pass. Of these eight communities, four are CDQ communities (Akutan, False Pass, St. George, and St. Paul), which means the ROFR holding eligible crab community (ECC) entity in those communities is the CDQ group to which the ECC is a member. In the remaining four communities (Dutch Harbor, Kodiak, King Cove, and Port Moller), an ECC entity was designated by the governing body of the ECC (Table A.3).

Table A.3 Communities with a history of crab processing and the associated ECC entity

Community with historic ties to crab processing	Eligible crab community (ECC) entity
Adak	* No ROFR, because Adak received an allocation of 10% of the Western Aleutian gold king crab TAC
Akutan (CDQ)	APICDA
False Pass (CDQ)	APICDA
St. George (CDQ)	APICDA
St. Paul (CDQ)	CBSFA
Kodiak (non-CDQ)	Kodiak Fisheries Development Association
King Cove (non-CDQ)	City of King Cove and Aleutia
Dutch Harbor (non-CDQ)	Unalaska Crab, Inc.
Port Moller (non-CDQ)	Aleutia

The ROFR is established by a contract between the community entity and the PQS holder. Under the contract, the ROFR applies to

- 1) any sale of PQS, and
- 2) sales of IPQ, if more than 20 percent of the PQS holder’s community-based IPQ in the fishery were processed outside the community by another company in 3 of the preceding 5 years.

To exercise the ROFR, the community entity 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.

Any intra-company transfers, within a region, are exempt from (i.e., do not trigger) the ROFR. To qualify for this exemption, the IPQ must be used by the same company.² In addition, a transfer of PQS subject to ROFR is exempt from the ROFR if the resulting IPQ would be used in the community holding the ROFR. To meet this exemption requirement, the purchaser must agree to use at least 80 percent of the annual IPQ in the community in 2 of the following 5 years and grant a ROFR on the received PQS to the community’s representative.

To exercise the ROFR, a community entity must provide the seller of PQS with notice of its intent to exercise the ROFR and earnest money in the amount of 10 percent of the contract amount or \$500,000, whichever is less, within 90 days of notice of a sale and receipt of the contract defining the sale’s terms. In addition, the entity must perform under the terms of the agreement within the longer of 150 days or the time specified by the contract.

² This provision does not apply to custom processing arrangements, as no PQS or IPQ transfer occurs under those arrangements.

Under the ROFR provisions, a PQS holder may use the IPQ yielded by its PQS in any location that it chooses (provided it complies with regional landing requirements).³ However, ROFR is triggered on the sale of IPQ, if more than 20 percent of the PQS holder's community-based IPQ in the fishery were processed outside the community by another company in 3 of the preceding 5 years. Therefore, an EAG PQS holder could have its IPQ custom processed outside of the ROFR-holding community, but if it leased its PQS to another entity outside of the community, after the 3rd year it would trigger the ROFR.

A.1.3 PQS/IPQ Use Caps and Exemptions

When the Council recommended the CR Program, it expressed concern about the potential for excessive consolidation of PQS, and the resulting annual IPQ. In the RIR developed for the CR Program, it was noted that, contrary to the intent of the PQS provisions, custom processing could create an opportunity for persons to buy crab processing rights without having a plant to actually process crab (i.e., non-participatory ownership of PQS). These processing share owners could then "lease" the rights to process crab to processors with the physical capacity through a custom processing arrangement. To address this concern, the CR Program limits the amount of PQS that a person can hold, the amount of IPQ that a person can use, and the amount of IPQ that can be processed at a given facility.

The CR Program is designed to minimize the potential that PQS and IPQ use caps could be evaded through the use of corporate affiliations or other legal relationships that would effectively allow a single person to use PQS or IPQ, even if they are not the majority owner of that PQS or IPQ. In most of the nine BSAI crab fisheries under the CR Program including EAG and WAG, a person is limited to holding no more than 30 percent of the PQS initially issued in the fishery and using no more than the amount of IPQ resulting from 30 percent of the initially issued PQS in a given fishery, with a limited exemption for persons receiving more than 30 percent of the initially issued PQS.

The CR Program calculates a person's IPQ use cap by summing the total amount of IPQ that is 1) held by that person; 2) held by other persons who are affiliated with that person through common ownership or control; and 3) any IPQ crab that is custom processed at a facility an IPQ holder owns, with exemptions for specific crab fisheries (see § 680.42(b)(7) and described below). The CR Program calculates the amount of IPQ used at a facility by adding all of the IPQ used by any person, whether custom processed or not, at a facility. The term "affiliation" is defined in regulations at § 680.2, as a relationship between two or more entities in which one directly or indirectly owns or controls a 10 percent or greater interest in, or otherwise controls, the other entities. An entity may be an individual, corporation, association, partnership, joint-stock company, trust, or other type of legal entity.

The amount of IPQ that a person can use may include IPQ crab that are processed under a "custom processing" arrangement. A custom processing arrangement exists 1) when one IPQ holder has a contract with the owners of a processing facility to have crab processed at that facility, 2) when that IPQ holder does not have an ownership interest in the processing facility, and 3) when that IPQ holder is not otherwise affiliated with the owners of that crab processing facility. In custom processing arrangements, the IPQ holder contracts with a facility operator to have the IPQ crab processed according to IPQ holder's specifications. Custom processing arrangements can occur when an IPQ holder does not own an onshore processing facility or cannot economically operate a stationary floating crab processor. Custom processing can also occur when an IPQ holder that does have an ownership interest in a facility, needs IPQ processed in a region where their plant does not operate (e.g., the plant is located in the South and

³ Under Amendment 44 (81 FR 1557, 01/13/2013) the Council considered, but ultimately did not recommend a provision that would require IPQ processing to occur in the community that benefits from the right of first refusal, unless that right holding entity consents moving IPQ processing. While the action would strengthen the position of these entities considerably, it was determined that the action would affect the ability of processors (and possibly harvesters) to achieve efficiencies and derive benefits from the fisheries.

they hold North-designated shares), or if there is an economic incentive to custom process at a plant that is not their own. Note that this arrangement is different than leasing PQS in which the IPQ is “sold” and associated risk and responsibility is passed on to the IPQ holder.

Exemptions from IPQ Use Caps

Shortly after implementation of the CR Program, the Council submitted and the Secretary approved Amendment 27 to the FMP (74 FR 25449, May 28, 2009; NMFS 2008). The 2006 reauthorization of the Magnuson-Stevens Act included a provision to exempt custom processing in the North region of the Bering Sea *C. opilio* fishery from processing use caps established under the CR Program. Amendment 27 implemented the exemption for *C. opilio* and extended the exemption to a few other fisheries in addition to *C. opilio* in the North region. Amendment 27 was designed to improve operational efficiencies in crab fisheries with historically low total allowable catches or that occur in more remote regions, by exempting certain IPQ crab processed under a custom processing arrangement from applying against the IPQ use cap of the owner of the facility at which IPQ crab are custom processed. Under regulations that implemented Amendment 27 to the FMP, § 680.42(b)(7) exempts IPQ crab processed under a custom processing arrangement from applying to a person’s IPQ use cap in six specific BSAI crab fisheries.

Section 680.42(b)(7)(ii)(A) lists the six BSAI crab fisheries for which the custom processing exemption applies:

- North region of the BS *C. opilio*
- Western AI golden king crab processed west of 174 degrees W. longitude
- Western AI red king crab
- Eastern AI golden king crab
- St. Matthew Island blue king crab, and
- Pribilof Islands red and blue king crab.

The six fisheries were given the exemption because during development of Amendment 27, participants in some of the crab fisheries expressed concerns about the economic viability of their fishing operations and proposed IPQ use cap exemptions for custom processing arrangement similar to those congressionally mandated for the north region BS *C. opilio* fishery.

As explained in the proposed rule for Amendment 27, the Council did not recommend exempting IPQ crab processed under a custom processing arrangement from applying against the IPQ use cap of a facility owner for all crab fisheries. Specifically, IPQ crab that are custom processed at a facility would continue to apply to the use cap of IPQ holders who have a 10 percent or greater direct or indirect ownership interest in the facility when those crab are custom processed in the Bristol Bay red king crab fishery, Bering Sea *C. opilio* crab fishery with a South Region designation, Eastern Bering Sea *C. bairdi* Tanner crab fishery, Western Bering Sea *C. bairdi* Tanner crab fishery, and Western Aleutian Islands golden king crab fishery, if those IPQ crab were processed east of 174° W. longitude.

The Council’s rationale for not providing a custom processing exemption from the IPQ use caps for these fisheries was as follows. First, Bristol Bay red king crab is assigned a relatively large TAC; 97.3 percent of the IPQ is designated for the South Region, and the Council did not judge that additional opportunities for consolidation were needed to facilitate economically efficient operations among the multiple processors in the South Region. Due to the limited TAC assigned in the North Region, processors could easily consolidate processing operations at a single facility within IPQ caps. Second, Bering Sea *C. opilio*

crab with a South Region designation also is assigned a relatively large TAC, and the ability to deliver to multiple processors in the South Region reduces the need to exempt custom processing arrangements from the use cap calculation. The Council did not judge that it needed to encourage additional consolidation in the processing operations for this fishery to encourage economically efficient processing. Third, Bering Sea *C. bairdi* Tanner crab are not subject to regionalization and, therefore, the need to exempt custom processing arrangements from the IPQ use cap did not appear necessary because these crab can be effectively delivered to any processor with matching IPQ in any location. Fourth, as explained above, exempting Western Aleutian Island golden king crab custom processed east of 174° W. longitude is not necessary, given the multiple delivery locations available to harvesters delivering east of 174° W. longitude.

Through Amendment 47 (effective 1/19/17) the eastern *C. bairdi* Tanner and Western *C. bairdi* Tanner fisheries were added to the list of fisheries that were exempt from custom processing counting towards IPQ use caps. However, the unforeseen exit of one processor from *C. bairdi* crab processing resulted in less than the minimum number of processors needed to process all of the Tanner crab IPQ without exceeding the IPQ use caps. As a result of this consolidation in processing operations, the processors currently operating in the Bering Sea region are constrained by IPQ use caps in the Bering Sea *C. bairdi* Tanner crab fisheries. Based on these conditions, in December 2015 the Council voted to request that NMFS promulgate an emergency rule to temporarily allow a custom processing exemption to the IPQ use caps for the 2015/2016 crab fishing year in the eastern *C. bairdi* Tanner and Western *C. bairdi* Tanner crab fisheries. In recommending the emergency rule, the Council recognized that the processor consolidation that had occurred in the *bairdi* crab fisheries would likely continue to constrain processors operating in the *bairdi* crab fisheries after the emergency rule expires. To address this situation, the Council initiated an amendment to the FMP and Federal regulations to add BS *bairdi* crab to the list of species for which custom processing arrangements do not count against the IPQ use cap. At its June 2016 meeting, the Council took final action to exempt custom processing arrangements for BS *bairdi* Tanner crab from processing quota use caps.

For the eight BSAI crab fisheries noted above, the IPQ crab processed under a custom processing arrangement are not included in the calculation for determining the amount of IPQ crab that is used by an IPQ holder or processed at a facility, if the person whose IPQ crab is processed does not have a 10 percent or greater ownership interest in the processing facility. The exemption effectively removes the IPQ use cap so that more than 30 percent of the IPQ could be processed at a facility, if there is no affiliation between the person whose IPQ crab is being processed at that facility and the IPQ holders who owns the facility. A person who holds IPQ and who owns a processing facility is credited only with the amount of IPQ crab used by that person, or any affiliates of that person, when calculating IPQ use caps. In sum, Amendment 27 and Amendment 47 allow processing facility owners who also hold IPQ to be able to use their facility to establish custom processing arrangements with other IPQ holders to process more crab at their facilities than would otherwise be allowed under the IPQ use caps, thereby improving throughput and providing a more economically viable processing sector.

Section 680.42(b)(7)(ii)(B) exempts IPQ crab under custom processing arrangements in the BSAI crab fisheries described above, provided that the facility at which the IPQ crab are custom processed meets specific location requirements. For these six BSAI crab fisheries, IPQ crab that are custom processed do not count against the IPQ use cap of persons owning the facility, if the facility is in a home rule, first class, or second class city in the State of Alaska in existence on the effective date of regulations implementing Amendment 27 (June 27, 2009) and is either a 1) shoreside crab processor, or 2) a stationary floating crab processor that is moored within a harbor at a dock, docking facility, or other permanent mooring buoy, with specific provisions applicable to the City of Atka. Additional information on the custom processing exemption requirements is found in the preamble to the final rule implementing Amendment 27 (74 FR 25449, May 28, 2009).

Regulations implementing Amendment 27 also provided specific exemptions that modify IPQ use cap calculations for IPQ crab subject to ROFR requirements. Amendment 27 established a custom processing exemption at § 680.42(b)(7)(ii)(C) for crab PQS/IPQ that is, or was, subject to ROFR so long as the PQS is transferred from the initial recipient and the IPQ then custom processed in the community to which the current or former ROFR applies by a registered crab receiver (RCR) that was not the initial recipient of the PQS. This exemption applies to any fishery with PQS that is subject to ROFR and allows any IPQ that is or was subject to ROFR and that is custom processed to not contribute to the IPQ cap of the company so long as the IPQ is processed in the ROFR community-of-origin. The ROFR provisions of the CR Program were modified with Amendment 44 to the FMP (81 FR 1557, January 13, 2016), which was effective on February 12, 2016.

An additional exemption to the IPQ use caps was created in 2013 with Amendment 41 to the FMP at § 680.4(p) (78 FR 28523, May 15, 2013). Amendment 41 created a process through which fishery participants can apply for an exemption from the regional delivery requirements. If granted, any IPQ exempted from the regional delivery requirements is also not applied to a company's IPQ use cap.

A.1.4 CDQ and ACA Allocations and CR Program Participation

The CR Program made changes in the BSAI crab allocations under the Community Development Quota (CDQ) program. The CDQ Program is an economic development program associated with federally managed fisheries in the BSAI. Its purpose, as specified in the Magnuson-Stevens Act (§305(i)(1)(A)), is to provide western Alaska communities the opportunity to participate and invest in BSAI fisheries, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska.

In fitting with these goals, NMFS allocates a portion of the annual catch limits for a variety of commercially valuable marine species in the BSAI to the CDQ Program. The percentage of each annual BSAI catch limit allocated to the CDQ Program varies by both species and management area. These apportionments are, in turn, allocated among six different non-profit managing organizations representing different affiliations of communities (CDQ groups), as dictated under the Magnuson-Stevens Act. Eligibility requirements for a community to participate in the western Alaska Community Development Program are identified in the Magnuson-Stevens Act at §305(i)(1)(D). The six CDQ groups include:

- Aleutian Pribilof Island Community Development Association (APICDA)
- Bristol Bay Economic Development Corporation (BBEDC)
- Central Bering Sea Fisherman's Association (CBSFA)
- Coastal Villages Region Fund (CVRF)
- Norton Sound Economic Development Corporation (NSEDC)
- Yukon Delta Fisheries Development Association (YDFDA)

While the CDQ program was already established prior to implementation of the BSAI CR Program, the development of the CR Program made changes to the crab allocations under CDQ. For instance, the CR Program broadened the CDQ allocations to include EAG and WAI fisheries and increased these total allocations of the TAC from 7.5% to 10% (see Table A.4).

The CR program also made an allocation to the community of Adak (the Adak Community Allocation; ACA) from the Western Aleutian Islands golden king crab fishery in an amount equal to the unused resource during the qualifying period (capped at 10% of the total fishery allocation). These changes in the CDQ allocations are intended to further facilitate fishing activity and economic development in rural Western Alaska communities.

The CDQ allocations are managed independently from the CR Program; there are some CR Program provisions that do not apply to the CDQ allocations (or apply differently) and some regulatory overlap. For instance, CDQ allocations are not subject to the IPQ and regional landing requirements. However, CDQ groups are required to deliver at least 25% of the allocations to shoreside processors. The prohibition against resuming fishing once an offload has commenced and until it is complete applies to CR Program crab, which includes IFQ and CDQ crab landings. Thus, the proposed action would impact both types of quota and quota holders. CDQ groups may also hold CR Program QS or PQS (with the exception of C shares) and many of the vessels that harvest CDQ crab also harvest IFQ crab (see NPFMC 2017).

Table A.4 CDQ and ACA group allocations for EAG and WAG

Fishery	Group Allocations (as a % of program allocation)						Adak Community Allocation	Program allocation (% of TAC)
	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFA		
EAG	8%	18%	21%	18%	21%	14%	0%	10%
WAG	0%	0%	0%	0%	0%	0%	100%	10%
Fishery	Group Allocations (in pounds based on the 2021/22 TAC)						Adak Community allocation	Total pounds by fishery
	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFA		
EAG	28,880	64,980	75,810	64,980	75,810	50,540	0	361,000
WAG	0	0	0	0	0	0	232,000	232,000

Source: NMFS 2021 CDQ Program quota categories, target and non-target CDQ reserves, allocation percentages, and group quotas <https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports-alaska#bsai-crab>

Both before and after implementation of the CR Program, CDQ groups made substantial investments in the BSAI crab fisheries. While these entities do not meet the requirements to hold C shares, community groups may, and have, invested in both CVO and CPO QS. Based on 2021/22 CDQ entity structure, CDQ groups held approximately 32% of the EAG harvesting QS and 61% of the WAG harvesting QS.

Table A.5 CDQ group and equity holdings of EAG and WAG QS, 2021/22

Fishery	CDQ CPO Holdings			CDQ CVO Holdings			% of Total Harvesting Shares
	CDQ Group Count	CDQ CPO QS Units	% of Total CPO Shares	CDQ Group Count	CDQ CVO QS Units	% of Total CVO Shares	
EAG	0		0.00%	4	3,125,998	33.86%	32.23%
WAG	1	17,742,655	98.93%	3	5,999,563	28.75%	61.19%

Source: AKR RAM Division QS database, sourced through AKFIN

Table notes: Holdings represent direct CDQ group holdings, wholly owned subsidiaries, and also equity in other shareholding companies.

CDQ groups also have influence in the acquisition of PQS. These groups are the Right of First Refusal (ROFR) holding entity for the communities they represent. Therefore, if a PQS holder was planning to sell outside the community of origin represented by a CDQ group, the seller would first need to allow the CDQ group to exercise their right. Given the limited use of ROFR, it is understood PQS sellers will often make sales directly with the ROFR holder (NPFMC 2017). Table A.6 demonstrates CDQ holdings of CR Program PQS by including PQS equity from joint ventures or partnerships, along with direct CDQ group holdings and wholly owned subsidiaries for the 2021/22 season.

Table A.6 CDQ group holdings of EAG and WAG PQS, 2021/22

Fishery	CDQ PQS Holdings		% of Total Processing Shares
	CDQ Group Count	CDQ PQS Units	
EAG	2	1,186,207	11.72%
WAG - Undesignated Region	1	1,459,226	7.29%
WAG - West Region	1	10,540,775	52.68%

Source: AKR RAM Division QS database, sourced through AKFIN

Table notes: Holdings represent direct CDQ group holdings, wholly owned subsidiaries, and also equity in other shareholding companies.

A.2 Characteristics of EAG/ WAG Harvesting

In recent years, the AIGKC fisheries have included five vessels; three in each fishery (Table A.7). Since 2013/14, AIGKC harvesting vessels have all been catcher vessels, with processing occurring on shore (Garber-Yonts & Lee 2022). These vessels typically harvest all of the EAG and WAG TAC, with an average of 99.6% harvested in the EAG and 96.7% harvested in WAG since rationalization (Table A.8). This includes IFQ, CDQ, ACA and estimated deadloss⁴ relative to the TAC. IFQ and CDQ crab are typically consolidated onto the same vessels.

⁴ Deadloss is the amount of dead crab landed at the dock, and includes those crab that by regulation cannot be processed or sold, such as certain crab species, females, and undersized male crab. This includes sub-industry preferred size crab that are of legal size, “dirty crab” (very old shell, barnacles, etc.), and contaminated crab (paint chips, diesel). Crab deadloss is required to be retained and is deducted from the TAC and IFQ allocations. Once accounted for, it is discarded because it is no longer marketable. Thus, deadloss which is properly accounted for is not a biological concern; however, it can be an economic one.

Table A.7 Number of vessels and landings in EAG and WAG, 2002/03 – 2021/22

Season	EAG		WAG		Total	
	Vessels (#)	Landings (#)	Vessels (#)	Landings (#)	Vessels (#)	Landings (#)
2002/03	19	43	6	73	22	116
2003/04	18	37	6	60	21	96
2004/05	19	32	6	51	22	83
2005/06	7	39	3	47	8	82
2006/07	6	38	4	37	7	74
2007/08	4	42	3	39	5	76
2008/09	3	37	3	42	5	79
2009/10	3	39	3	41	5	80
2010/11	3	35	3	38	5	73
2011/12	3	41	3	40	5	81
2012/13	3	45	4	36	6	81
2013/14	3	42	3	34	5	76
2014/15	3	33	2	44	5	77
2015/16	3	34	2	50	5	84
2016/17	4	38	3	37	5	75
2017/18	4	40	3	41	5	81
2018/19	3	47	3	36	5	83
2019/20	3	48	3	44	5	92
2020/21	3	47	3	38	5	85
2021/22	3	47	3	41	5	88

Source: Nichols et al. 2022

Notes: Guideline harvest level (GHL) pre-2005, total allowable catch (TAC) from 2005/ 06 onwards.

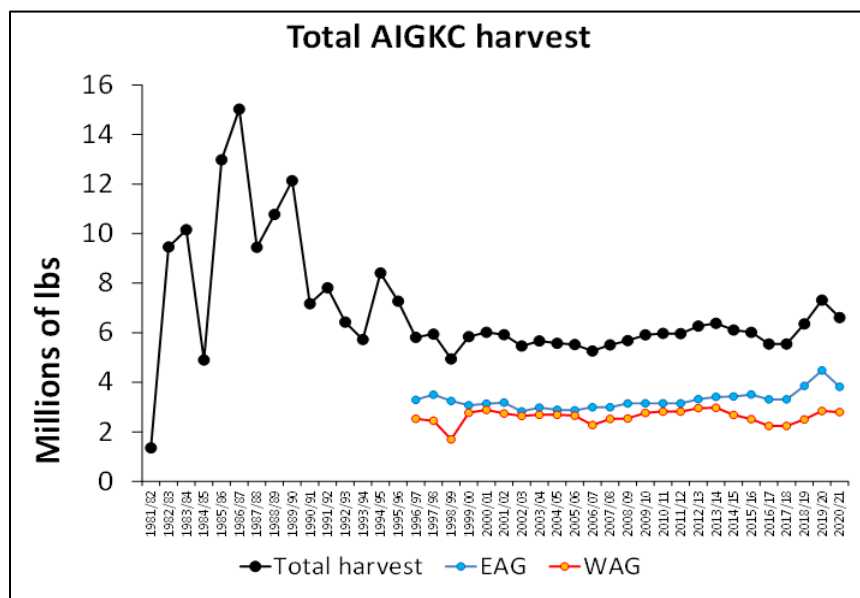


Figure A.3 Total EAG and WAG harvest, 1981/82 – 2020/21

Source: Daly & Milani 2022, presentation to the Crab Plan Team, Slide 55, accessed at: [https://meetings.npfmc.org/CommentReview/DownloadFile?p=4c1e3a70-a663-4d8d-9d8a-8b7aafa564b0.pdf&fileName=PPT %202021 22%20Catch presentation.pdf](https://meetings.npfmc.org/CommentReview/DownloadFile?p=4c1e3a70-a663-4d8d-9d8a-8b7aafa564b0.pdf&fileName=PPT%202021%20Catch%20presentation.pdf)

Table A.8 Allocation, harvest and percent harvested in EAG and WAG, 2002/03 – 2021/22

Season	EAG			WAG			Total		
	GHL/TAC (lb)	Harvest (lb)	Percent	GHL/TAC (lb)	Harvest (lb)	Percent	GHL/TAC (lb)	Harvest (lb)	Percent
2002/03	3,000,000	2,821,851	94.1%	2,700,000	2,640,604	97.8%	5,700,000	5,462,455	96%
2003/04	3,000,000	2,977,055	99.2%	2,700,000	2,688,773	99.6%	5,700,000	5,665,828	99%
2004/05	3,000,000	2,886,817	96.2%	2,700,000	2,688,234	99.6%	5,700,000	5,575,051	98%
2005/06	3,000,000	2,866,602	95.6%	2,700,000	2,653,716	98.3%	5,700,000	5,520,318	97%
2006/07	3,000,000	2,992,010	99.7%	2,700,000	2,270,332	84.1%	5,700,000	5,262,342	92%
2007/08	3,000,000	2,989,997	99.7%	2,700,000	2,518,103	93.3%	5,700,000	5,508,100	97%
2008/09	3,150,000	3,144,423	99.8%	2,835,000	2,535,661	89.4%	5,985,000	5,680,084	95%
2009/10	3,150,000	3,150,474	100.0%	2,835,000	2,761,813	97.4%	5,985,000	5,912,287	99%
2010/11	3,150,000	3,148,188	99.9%	2,835,000	2,820,661	99.5%	5,985,000	5,968,849	100%
2011/12	3,150,000	3,150,374	100.0%	2,835,000	2,814,042	99.3%	5,985,000	5,964,416	100%
2012/13	3,310,000	3,315,115	100.2%	2,980,000	2,952,644	99.1%	6,290,000	6,267,759	100%
2013/14	3,310,000	3,302,061	99.8%	2,980,000	2,970,514	99.7%	6,290,000	6,272,575	100%
2014/15	3,310,000	3,307,016	99.9%	2,980,000	CF	CF	6,290,000	CF	CF
2015/16	3,310,000	3,302,480	99.8%	2,980,000	CF	CF	6,290,000	CF	CF
2016/17	3,310,000	3,307,162	99.9%	2,235,000	2,236,651	100.1%	5,545,000	5,543,813	100%
2017/18	3,310,000	3,308,185	99.9%	2,235,000	2,234,723	100.0%	5,545,000	5,542,908	100%
2018/19	3,856,000	3,854,105	100.0%	2,500,000	2,501,344	100.1%	6,356,000	6,355,449	100%
2019/20	4,310,000	4,308,530	100.0%	2,870,000	2,840,078	99.0%	7,180,000	7,148,608	100%
2020/21	3,650,000	3,650,255	100.0%	2,960,000	2,792,835	94.4%	6,610,000	6,443,090	97%
2021/22	3,610,000	3,614,798	100.1%	2,320,000	2,189,000	94.4%	5,930,000	5,803,798	98%

Source: Nichols et al. 2022

Notes: Guideline harvest level (GHL) pre-2005, total allowable catch (TAC) from 2005/ 06 onwards. Deadloss is included in the harvest amounts.

Catch per unit effort (CPUE) tends to be greater in the EAG fishery with an average of 32 legal crab per pot pull in the EAG versus 22 legal crab per pot pull in the WAG since rationalization (Figure A.4).

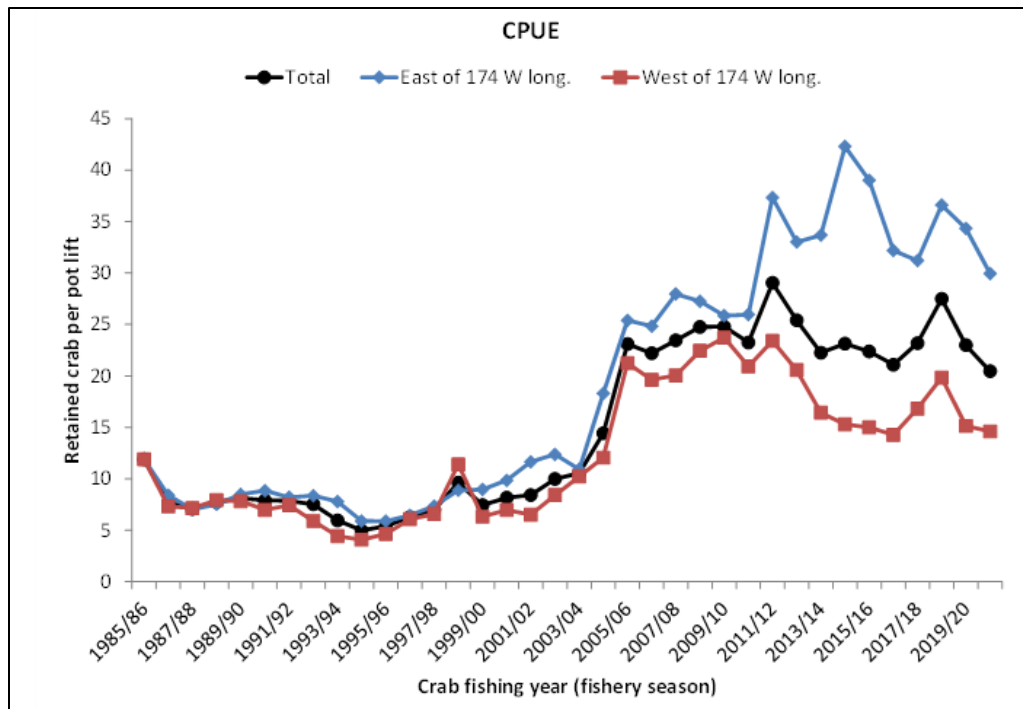


Figure A.4 Catch per unit effort in the AIGKC fisheries

Source: Daly & Milani 2021, presentation to the Crab Plan Team, Slide 56, accessed at: https://meetings.npfmc.org/CommentReview/DownloadFile?p=4c1e3a70-a663-4d8d-9d8a-8b7aafa564b0.pdf&fileName=PPT_%202021_22%20Catch_presentation.pdf

Throughout the CR Program (since 2005/06), both fisheries have been opened for about 9 months. Up until the 2015/16 season, the season began August 15 and closed May 15. In 2015/16 and subsequent years the season was moved 15 dates earlier; August 1 to April 30. In the 2019/20 season, in order to accommodate vessels that were participating in the ADF&G survey, the season was set from July 15 to April 30. In the 2020/21 season, the COVID-19 pandemic prevented the survey from occurring and the season was scheduled August 1 to April 30, with the WAG closing date pushed back to May 13, 2021. In 2021/22, the season was once again opened early (on July 1) by commissioner’s permit in order to accommodate vessels participating in the survey. As IFQ is typically not issued until around August 1, despite an earlier season start date, crab landed prior to IFQ issuance was exclusively crab contributing to the State of Alaska Cost Recovery Program or CDQ crab. In 2021, all landings were either CDQ or through the cost recovery program in July. In 2021, the first IFQ landing occurred Aug. 15, 2021 and in 2022 the first IFQ landing occurred Aug. 12. In the 2021/22 season, EAG vessels were on average active 129 days of the 304-day season, with the last delivery on December 13. In the WAG fishery on average, vessels were active in the fishery for 205 days of the 296-day season.

AIGKC vessels have limited diversity in other fisheries, with some activity in Bristol Bay red king crab and Bering Sea snow crab from some of the vessels. They use longlined pots, with an average of about 2,000 pots registered to each vessel (K. Bush, 1/20/23, personal communication). The vessels rotate through the strings, resulting in significantly longer soak times than other CR fisheries as the vessel delivers a portion of the set to the shoreside processor. Average soak time for the EAG fishery between 2010 – 2014 was 389 hours (i.e., about 16 days) and 599 hours (i.e., about 25 days) for the WAG fishery. This is relative to an average of 61 hours in the Bristol Bay red king crab fishery and 54 hours in the Bering Sea snow crab fishery between 2010- 2014 (NPFMC 2017).

In both the EAG and WAG fisheries, harvest is fairly dispersed throughout the Aleutian Islands (Figure A.5). East of 174° W long, the Statistical Areas 715202, 725201, and 725230 accounted for the greatest amount of harvest in 2020/ 21 (Nichols et al. 2022). However, this made up only about 37% of the total harvest, the rest of which was dispersed throughout the region.

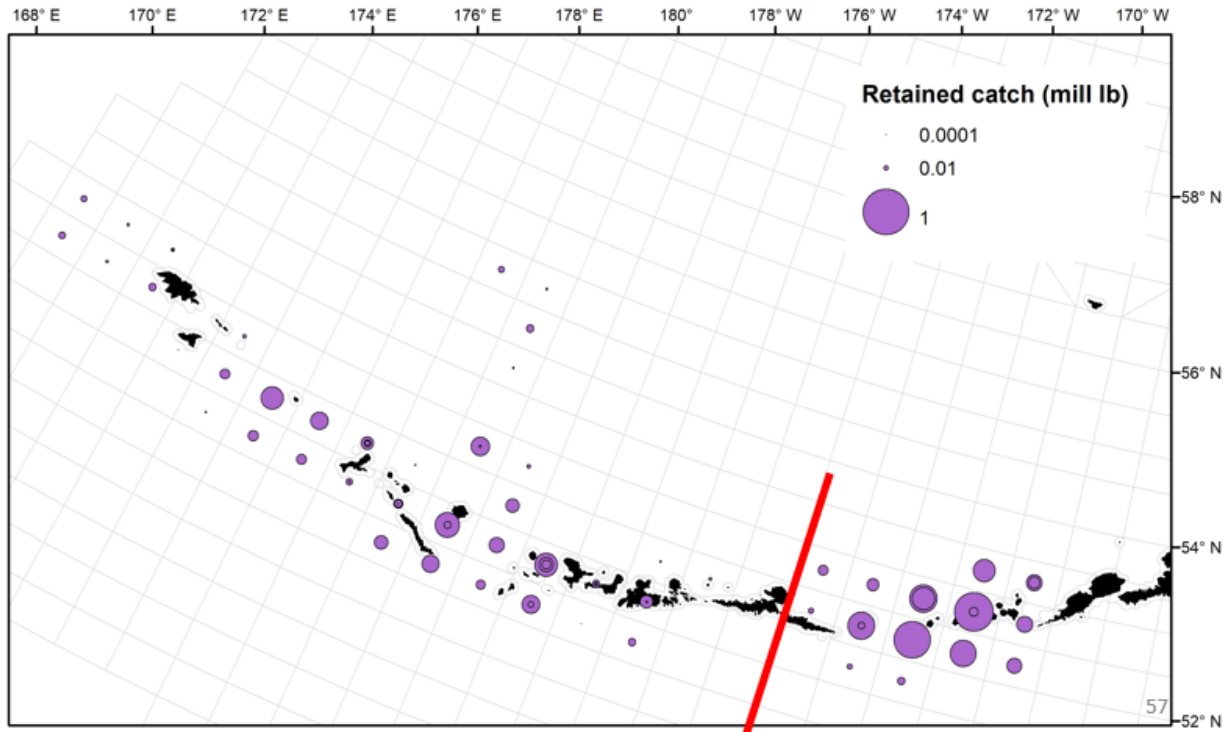


Figure A.5 AIGKC harvest spatial distribution from 2021/22

Source: Daly & Milani 2021, presentation to the Crab Plan Team, Slide 57, accessed at: https://meetings.npfmc.org/CommentReview/DownloadFile?p=4c1e3a70-a663-4d8d-9d8a-8b7aafa564b0.pdf&fileName=PPT_%202021_22%20Catch_presentation.pdf

Table A.9 and Table A.10 provide a snapshot of QS ownership for the EAG and WAG fisheries in 2021/22. Both EAG and WAG include QS holders that were “grandfathered into” the CR Program with QS with holdings in excess of the use caps.⁵ The EAG fishery had 32 QS holders holding an average of 3.1% of the total QS pool for this fishery and one holder accounting for up to 19.4% of the total EAG QS. The majority of the shares are CV shares, with only 4.8% designated as CPO quota and no CPC shares. All of the CVO A shares are designated to be delivered in the south.

There were 21 WAG QS holders at the start of the 2021/22 season. The WAG fishery has more QS designated for CPs, accounting for 45.7% of the owner shares (CPO) and 41.7% of the crew shares (CPC). Although, as described in Section 1.4, all WAG QS has been landed on shore since 2013/14. The

⁵ “Individual use caps” are imposed in the CR Program on the use and holdings of harvest shares by any person which may limit an individual’s holdings. For persons who *do not* hold both QS and PQS in the EAG and WAG fisheries, CVO/ CPO holdings are capped at 10% of the initial pool of CVO/ CPO. For persons who *do not* hold both QS and PQS in the EAG and WAG fisheries, CVC/ CPC holdings are capped at 20% of the initial pool of CVC/ CPC. For persons who *do hold* both QS and PQS, the EAG and WAG QS use cap is 5% of the initial QS pool. Exemptions in both cases are made for persons that received more QS at initial allocation due to historical activity.

The average holdings for the WAG fishery is 4.8% of the pool, but one QS holder was grandfathered into the CR Program with 44.4% of all WAG QS.

Table A.9 EAG QS holdings by share type, region, and operations type, 2021/22

Share type	Share holdings by region and operation type					Across regions and operations types		
	Region/ catcher processor	# of QS holders	% of QS pool	Mean % holding	Maximum % holding	# of QS holders	Mean % holding	Maximum % holding
Owner quota shares	South	20	95.2%	4.8%	20.0%	32	3.1%	19.4%
	Catcher processor	5	4.8%	1.0%	2.4%			
Crew quota shares	Catcher vessel	10	100.0%	10.0%	4.8%			

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>

Table A.10 WAG QS holdings by share type, region, and operations type, 2021/22

Share type	Share holdings by region and operation type					Across regions and operations types		
	Region/ catcher processor	# of QS holders	% of QS pool	Mean % holding	Maximum % holding	# of QS holders	Mean % holding	Maximum % holding
Owner quota shares	Undesignated	11	26.9%	2.4%	11.0%	21	4.8%	44.4%
	West	8	26.9%	3.4%	13.5%			
	Catcher processor	3	46.2%	15.4%	45.7%			
Crew quota shares	Catcher vessel	7	57.5%	8.2%	21.7%			
	Catcher processor	2	42.5%	21.3%	41.7%			

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>

There have been nine crab cooperatives in recent years. Six of the nine have members that hold WAG QS and five have members that hold EAG QS (Table A.11). The majority of the EAG and WAG is issued to the Intercooperative Exchange (ICE) and Dog Boat cooperative.

Table A.11 Pounds of EAG and WAG IFQ assigned to CR cooperatives in 2021/22

Cooperative	EAG (lb issued)	WAG (lb issued)
ALASKA KING CRAB HARVESTERS COOPERATIVE		242,812
ALTERNATIVE CRAB EXCHANGE (ACE)	204,541	89,744
COASTAL VILLAGES CRABBING COOPERATIVE	160,649	45,837
DOG BOAT COOPERATIVE	1,059,893	926,166
INTER-COOPERATIVE EXCHANGE (ICE)	1,339,579	722,228
R & B COOPERATIVE	484,338	61,211

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>

Table A.12 demonstrates the initial ex vessel prices and total gross revenue associated with EAG and WAG. In the 2021/22 season, EAG harvesters were paid an initial average price of \$5.03 per pound and WAG harvesters were paid an initial average price of \$5.49 per pound. This represents approximately \$18

million and \$12 million in total ex vessel value, and the highest ex vessel price since the inception of the fishery.

Table A.12 Ex vessel and total gross revenue associated with the EAG and WAG, 2000/01- 2021/22

Season	EAG		WAG	
	Ex vessel	Total	Ex vessel	Total
2000/01	\$3.51	\$10,806,859	\$3.07	\$8,682,694
2001/02	\$3.30	\$10,324,453	\$3.15	\$8,487,366
2002/03	\$3.33	\$9,199,835	\$3.50	\$9,117,906
2003/04	\$3.47	\$10,065,228	\$3.83	\$10,109,101
2004/05	\$3.18	\$9,039,137	\$3.29	\$8,706,763
2005/06	\$2.51	\$7,117,132	\$2.12	\$5,549,420
2006/07	\$1.71	\$5,070,070	\$1.32	\$2,978,071
2007/08	\$2.14	\$6,365,457	\$1.79	\$4,454,290
2008/09	\$3.42	\$10,678,756	\$1.91	\$4,791,631
2009/10	\$1.98	\$6,174,304	\$1.96	\$5,322,370
2010/11	\$3.03	\$9,315,401	\$3.53	\$9,803,355
2011/12	\$3.80	\$11,880,146	\$3.72	\$10,313,779
2012/13	\$3.47	\$11,218,989	\$3.30	\$9,554,574
2013/14	\$3.48	\$11,376,784	\$3.50	\$10,081,665
2014/15	\$3.34	\$10,936,484	CF	CF
2015/16	\$3.64	\$11,815,476	CF	CF
2016/17	\$4.52	\$14,660,890	\$4.50	\$9,664,768
2017/18	\$3.59	\$11,691,725	\$3.67	\$7,997,779
2018/19	\$4.50	\$17,118,842	\$4.49	\$10,987,299
2019/20	\$4.64	\$19,740,830	\$4.50	\$12,534,971
2020/21	\$4.56	\$16,492,203	\$4.51	\$12,311,834
2021/22	\$5.03	\$18,046,612	\$5.49	\$11,728,085

Source: Nichols et al. 2022

Notes: Guideline harvest level (GHL) pre-2005, total allowable catch (TAC) from 2005/ 06 onwards. Ex vessel price is average price per pound

A.3 Characteristics of EAG/ WAG Processing

A number of types of entities that are relevant when considering the processing structure of CR crab. The PQS holder, IPQ holder, RCRs or processing company and the facility in which the crab is processed may all be the same entity. However, these may also be representing two or more different entities. PQS may be leased (or equivalently, the sale of IPQ) on an annual basis in which case the PQS holder and the IPQ holder would not be the same entity. IPQ may be custom processed at a facility in which the RCR or processing company has no ownership stake. This section describes some of these levels of processing engagement, to the extent possible given confidentially restrictions around landings data.

Table A.13 and Table A.14 demonstrate the number of processing entities that have participated at the different levels of engagement. The PQS holdings in the WAG fishery have not changed within the timeseries presented; however, there have been some changes in the IPQ holders and processing companies that have facilitated the processing and wholesale market connection. Additionally, there has been some changes in the facilities used to process the WAG crab. The EAG fishery has had some changes in the PQS holders over the presented timeseries, in addition to some changes at all other levels of processing entities. The prevalence of custom processing relationships is evident in comparing the number of active IPQ accounts and processing companies with the number of active processing plants.

Table A.13 Number of EAG QS holders, IPQ holders, processing companies, and facilities 2010-2021

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
# of PQS holders	10	10	10	10	9	9	9	10	10	10	10	10
# of IPQ holder	7	7	7	7	7	*	6	6	7	7	8	6
# of processing companies	7	9	10	9	7	6	7	7	8	7	10	7
# of processing facilities	4	5	5	5	3	3	4	4	4	3	5	3

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>

* Not included in the NMFS RAM dataset

Table A.14 Number of WAG QS holders, IPQ holders, processing companies, and facilities, 2010-2021

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
# of PQS holders	10	10	10	10	10	10	10	10	10	10	10	10
# of IPQ holder	8	6	7	6	7	*	6	6	6	6	7	6
# of processing companies	4	7	6	7	8	9	8	8	6	6	8	8
# of processing facilities	2	5	5	5	4	3	5	4	3	3	4	3

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>

* Not included in the NMFS RAM dataset

Table A.15 and Table A.16 demonstrate the 2021/22 PQS holdings for the EAG and WAG fisheries. Corresponding with Table A.9, all of the EAG processing shares are assigned for the south region. In the EAG fishery, one allocation of approximately 45% of the PQS pool was ‘grandfathered in’ excess of the PQS cap (30%). In the 2021/22 season, there were also 10 PQS holders in the WAG fishery. All of these entities are currently under the 30% use cap, but two entities hold PQS at the level of the cap.

Table A.15 EAG PQS holdings by region, 2021/22

Share type	Share holdings by region and operation type				
	Region	# of PQS holders	% of QS pool	Mean % holding	Maximum % holding
Processor quota share	South	10	100.0%	10.0%	45.4%

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>

Table A.16 WAG QS holdings by region, 2021/22

Share type	Share holdings by regional designation					Across regions		
	Region	# of PQS holders	% of QS pool	Mean % holding	Maximum % holding	# of PQS holders	Mean % holding	Maximum % holding
Processor quota share	Undesignated	8	50.0%	6.3%	29.6%	10	10.0%	30.0%
	West	7	50.0%	7.1%	26%			

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>

Table A.17 and Table A.18 demonstrate EAG and WAG processing participation that has occurred at the facility level. Between 2010 and 2021, three to five facilities have received deliveries of EAG and two to

five facilities have received deliveries of WAG. Three facilities have had consistent EAG processing participation throughout the timeseries (one in Akutan, two in Dutch Harbor/ Unalaska). Two facilities have in Dutch Harbor/ Unalaska have had consistent participation processing WAG during the timeseries.

Data confidentiality requirements restrict displaying the amount of crab that has been landed at each facility or how close each facility is to the facility use cap. However, as stated in the proposals submitted to the Council in June 2021, UniSea in Dutch Harbor (which is represented in Table A.17) has been near enough the EAG facility use cap in many years that it cannot accept addition custom processed EAG.

Table A.17 EAG processing facilities, 2010-2021

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Adak												
Facility 1											X	
Akutan												
Facility 1	X	X	X	X	X	X	X	X	X	X	X	X
Anchorage												
Facility 1		X	X	X								
Dutch Harbor/ Unalaska												
Facility 1	X	X	X	X			X	X	X		X	
Facility 2	X	X	X	X	X	X	X	X	X	X	X	X
Facility 3	X	X	X	X	X	X	X	X	X	X	X	X

Source: comprehensive_ft sourced through AKFIN

Table A.18 WAG processing facilities, 2010-2021

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Adak												
Facility 1								X	X	X	X	
Facility 2		X										
Facility 3			X	X								
Akutan												
Facility 1		X	X	X	X	X	X	X				
Anchorage												
Facility 1		X	X	X	X							
Bellingham												
Facility 1							X					
Dutch Harbor/ Unalaska												
Facility 1							X				X	
Facility 2	X	X	X	X	X	X	X	X	X	X	X	X
Facility 3	X	X	X	X	X	X	X	X	X	X	X	X
King Cove												
Facility 1												X

Source: comprehensive_ft sourced through AKFIN

References:

- Garber-Yonts, B. and J. Lee. 2022. Stock assessment and fishery evaluation report for the king and Tanner crab fisheries of the Gulf of Alaska and the Bering Sea/ Aleutian Islands Area: Economic status of the BSAI king and Tanner crab fisheries off Alaska, 2021. January 2022. Alaska Fisheries Science Center. Seattle, WA. Accessed at: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=9e166e8f-4e58-4522-973a-ca074306e42e.pdf&fileName=D7%20Crab%20Economic%20SAFE.pdf>
- Nichols, E. and J. Shaishnikoff. 2022. Annual management report for shellfish fisheries in the Bering Sea/ Aleutian Islands Management Area, 2021/22. November 2022. Alaska Department of Fish and Game, Fishery Management Report No. 22-28. Anchorage, AK. Accessed at: <https://www.adfg.alaska.gov/FedAidPDFs/FMR22-28.pdf>
- North Pacific Fishery Management Council. [NPFMC]. 2017. Ten-year program review for the crab rationalization management program in the Bering Sea/ Aleutian Islands. January 2017. Anchorage, AK. Accessed at: https://www.npfmc.org/wp-content/PDFdocuments/catch_shares/Crab/Crab10yrReview_Final2017.pdf

Appendix 2. Federal Regulations Relevant to the EAG Facility Use Cap Proposal

Accessible at: <https://www.ecfr.gov/current/title-50/chapter-VI/part-680>

50 CFR 680.4 Permits.

(p) *Exemption from regional delivery requirements for the Bristol Bay red king crab, Bering Sea snow crab, St. Matthew blue king crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, and Pribilof red king and blue king crab fisheries -*

...

50 CFR 680.7 Prohibitions.

In addition to the general prohibitions specified in [§ 600.725 of this chapter](#), it is unlawful for any person to do any of the following:

...

(a) *Receiving and processing CR crab.*

...

(7) For an IPQ holder to use more IPQ than the maximum amount of IPQ that may be held by that person. Use of IPQ includes all IPQ held by that person, and all IPQ crab that are received by any RCR at any shoreside crab processor or stationary floating crab processor in which that IPQ holder has a 10 percent or greater direct or indirect ownership interest, unless that IPQ crab meets the requirements in [§ 680.42\(b\)\(7\)](#) or [§ 680.42\(b\)\(8\)](#).

(8) For a shoreside crab processor or stationary floating crab processor, that does not have at least one owner with a 10 percent or greater direct or indirect ownership interest who also holds IPQ in that crab QS fishery, to receive in excess of 30 percent of the IPQ issued for that crab fishery, unless that IPQ meets the requirements described in [§ 680.42\(b\)\(7\)](#) or [§ 680.42\(b\)\(8\)](#).

(9) For any shoreside crab processor or stationary floating crab processor east of 174 degrees west longitude to use more than 60 percent of the IPQ issued in the EAG or WAI crab QS fisheries, unless that IPQ meets the requirements described in [§ 680.42\(b\)\(8\)](#).

...

50 CFR 680.42 Limitations on use of QS, PQS, IFQ, and IPQ.

...

(b) *PQS and IPQ Use Caps.*

(1) A person may not:

(i) Hold more than 30 percent of the initial PQS pool in any crab QS fishery unless that person received an initial allocation of PQS in excess of this limit. A person will not be issued PQS in excess of the use caps established in this section based on PQS derived from the transfer of legal processing history after June 10, 2002.

(ii) Use IPQ in excess of the amount of IPQ that results from the PQS caps in [paragraph \(b\)\(1\)\(i\)](#) of this section, unless that IPQ is:

(A) Derived from PQS that was received by that person in the initial allocation of PQS for that crab QS fishery, or

(B) Subject to an exemption for that IPQ pursuant to [§ 680.4\(p\)](#).

...

(7) Any IPQ crab that is received by an RCR will not be considered use of IPQ by an IPQ holder who has a 10 percent or greater direct or indirect ownership interest in the shoreside crab processor or stationary floating crab processor where that IPQ crab is processed under [§ 680.7\(a\)\(7\)](#) or [paragraph \(a\)\(8\)](#) of this section if:

(i) That RCR is not affiliated with an IPQ holder who has a 10 percent or greater direct or indirect ownership interest in the shoreside crab processor or stationary floating crab processor where that IPQ crab is processed; and

(ii) The IPQ crab meets the conditions in [paragraphs \(b\)\(7\)\(ii\)\(A\)](#) and [\(B\)](#) of this section or the IPQ crab meets the conditions in [paragraph \(b\)\(7\)\(ii\)\(C\)](#) of this section:

(A) The IPQ crab is:

- (1) BSS IPQ crab with a North region designation;
- (2) EAG IPQ crab;
- (3) EBT IPQ crab;
- (4) PIK IPQ crab;
- (5) SMB IPQ crab;
- (6) WAG IPQ crab provided that IPQ crab is processed west of 174 degrees west longitude;
- (7) WAI IPQ crab; or
- (8) WBT IPQ crab.

(B) That IPQ crab is processed at:

(1) Any shoreside crab processor located within the boundaries of a home rule, first class, or second class city in the State of Alaska in existence on June 29, 2009; or

(2) Any stationary floating crab processor that is:

(i) Located within the boundaries of a home rule, first class, or second class city in the State of Alaska in existence on June 29, 2009;

(ii) Moored at a dock, docking facility, or at a permanent mooring buoy, unless that stationary floating crab processor is located within the boundaries of the city of Atka in which case that

stationary floating crab processor is not required to be moored at a dock, docking facility, or at a permanent mooring buoy; and

(iii) Located within a harbor, unless that stationary floating crab processor is located within the boundaries of the city of Atka on June 29, 2009, in which case that stationary floating crab processor is not required to be located within a harbor.

(C) The IPQ crab is:

(1) Derived from PQS that is, or was, subject to a ROFR as that term is defined at [§ 680.2](#);

(2) Derived from PQS that has been transferred from the initial recipient of those PQS to another person under the requirements described at [§ 680.41](#);

(3) Received by an RCR who is not the initial recipient of those PQS; and

(4) Received by an RCR within the boundaries of the ECC for which that PQS and IPQ derived from that PQS is, or was, designated in the ROFR.

(8) Any IPQ crab that is received by an RCR will not be considered use of IPQ by an IPQ holder for the purposes of [paragraphs \(b\)\(1\)](#) and [\(b\)\(2\)](#) of this section, if the IPQ is subject to an exemption pursuant to [§ 680.4\(p\)](#).

.....