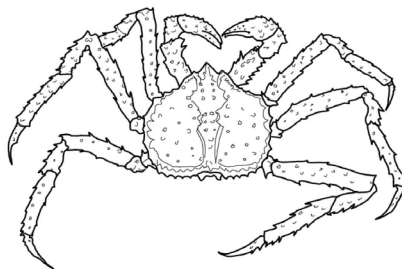


DRAFT

**Regulatory Impact Review
for Proposed Amendment 55 to the Fishery Management Plan for
Bering Sea/Aleutian Islands King and Tanner Crabs**

**Remove Facility Use Caps and Exempt Custom
Processing from the Individual Processing Quota Caps in
the Bering Sea/Aleutian Islands Crab Fisheries**

February 6, 2024



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Abstract:

This Regulatory Impact Review analyzes proposed management measures that would remove the remove the 60 percent facility use caps on the processing of Eastern Aleutian Islands golden king crab and Western Aleutian Islands red king crab. A separate proposed action (not mutually exclusive from the first) considers exempting from Processors Quota Share/Individual Processing Quota (PQS/IPQ) use caps custom processing of IPQ for Bristol Bay red king crab, Eastern Bering Sea snow crab with a south-region designation, and Western Aleutian Islands golden king crab processed east of 174° West longitude. This second proposed action would align the application of the PQS/ IPQ use caps across all CR Program fisheries so that they do not include custom processed IPQ crab in any fishery when processed in a shoreside processor or stationary floating crab processor within a community boundary. Regional delivery requirements would not be changed under the proposed action nor would the 30 percent cap on the amount of PQS and IPQ that could be held or leased.

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Acronyms and Abbreviations

| Acronym or Abbreviation | Meaning |
|-------------------------|--|
| ABC | Acceptable biological catch |
| ACA | Adak Community Allocation |
| ADF&G | Alaska Department of Fish and Game |
| AFSC | Alaska Fisheries Science Center |
| AKFIN | Alaska Fisheries Information Network |
| BSAI | Bering Sea and Aleutian Islands |
| C shares | Crew quota share (CVC or CPC) |
| CDQ | Community Development Quota |
| CFR | Code of Federal Regulations |
| COAR | Commercial Operators Annual Report |
| Council | North Pacific Fishery Management Council |
| CPC | Catcher processor crew (quota share) |
| CPO | Catcher processor owner (quota share) |
| CR Program | Crab Rationalization Program |
| CVC or C shares | Catcher vessel crew (quota share) |
| CVO | Catcher vessel owner (quota share) |
| E.O. | Executive Order |
| EEZ | Exclusive Economic Zone |
| FMP | Fishery management plan |
| FR | <i>Federal Register</i> |
| IAD | Initial Administration Determination |
| IFQ | Individual fishing quota |
| IPQ | Individual processing quota |
| lb(s) | Pound(s) |
| Magnuson-Stevens Act | Magnuson-Stevens Fishery Conservation and Management Act |
| NEPA | National Environmental Policy Act |
| NMFS | National Marine Fishery Service |
| NOAA | National Oceanic and Atmospheric Administration |
| NPFMC | North Pacific Fishery Management Council |
| OFL | Overfishing level |
| PA | Preferred alternative |
| PPA | Preliminary preferred alternative |
| PQS | Processing quota share |
| QS | Quota share |
| RA | Regional Administrator |
| RAM | Restricted Access Management |
| RCR | Registered crab receiver |
| RFA | Regulatory Flexibility Act |
| RIR | Regulatory Impact Review |
| SAFE | Stock Assessment and Fishery Evaluation |
| SSC | Scientific and Statistical Committee |
| TAC | Total allowable catch |
| U.S. | United States |

| Acronym | Crab Fisheries |
|---------|--|
| AIG | Aleutian Islands golden king crab (East and West fisheries combined) |
| BBR | Bristol Bay red king crab |
| BSS | Bering Sea snow crab |
| BST | Bering Sea Tanner crab (east and west fisheries combined) |
| EAG | Eastern Aleutian Islands golden king crab |
| EBT | Eastern Bering Sea Tanner crab |
| PIG | Pribilof Islands golden king crab |
| PIK | Pribilof Islands red king crab |
| SMB | St. Matthew Island blue king crab |
| WAG | Western Aleutian Islands golden king crab |
| WAI | Western Aleutian Islands (Adak) red king crab |
| WBT | Western Bering Sea Tanner crab |

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Executive Summary

This document analyzes proposed actions that would apply to some crab fisheries in the Bering Sea/Aleutian Islands (BSAI). There are two actions under consideration that are not mutually exclusive. The first action would remove the 60% facility use caps on the processing of Eastern Aleutian Islands golden king crab and Western Aleutian Islands red king crab. A separate proposed action (not mutually exclusive from the first) considers exempting from Processors Quota Share/Individual Processing Quota (PQS/IPQ) use caps custom processing of IPQ for Bristol Bay red king crab, Eastern Bering Sea snow crab with a south-region designation, and Western Aleutian Islands golden king crab processed east of 174° West longitude. This second proposed action would align the application of the PQS/ IPQ use caps across all CR Program fisheries so that they do not include custom processed IPQ crab in any fishery when processed in a shoreside processor or stationary floating crab processor within a community boundary. Regional delivery requirements would not be changed under the proposed action nor would the 30% cap on the amount of PQS and IPQ that could be held or leased.

Purpose and Need

The Council adopted the following problem statement to originate this action in February 2023:

Since implementation of the crab rationalization program in 2005, a significant percentage of crab processor shares have been acquired by participants that do not own processing facilities and are dependent on custom processing markets. Although custom processing was exempted from facility use caps for most BSAI crab fisheries in 2006, facility use caps were implemented for the Eastern Aleutian Islands golden king crab (EAG) fishery and the Western Aleutian Island red king fishery (WAI) fishery when processed east of 174° W longitude. The Council is considering eliminating the EAG and WAI processing facility use caps, to potentially increase the availability of custom processing services and the development of new product forms and markets.

In addition, recent declines in Bristol Bay red king crab (BBR) and Eastern Bering Sea (EBS) snow crab abundance have resulted in closures of commercial fishing seasons and increase the likelihood of low total allowable catch (TAC) limits in the near future. These changes have caused significant disruption to participants, including high costs and inefficiencies in the harvesting and processing of these crab species at low TAC levels. Custom processing of crab is exempt from IPQ use caps with the exception of BBR, EBS snow crab with a south-region designation, and Western Aleutian Island golden king crab (WAG) processed east of 174° W longitude. The Council is considering adding these fisheries to the custom processing exemption, to allow participants to increase efficiency and continue to derive benefits from the fisheries.

The Council is considering these changes while preserving overall ownership and entity use caps in the crab program to continue to limit consolidation.

Alternatives

The Council adopted the following alternatives for analysis in February 2023. The action alternatives listed below (Alternatives 2 and 3) were designed to accomplish the stated purpose and need for the action. The action alternatives are not mutually exclusive. In October 2023, the slightly modified the alternatives and adopted both as part of its preliminary preferred alternative (PPA). In December 2023, the Council adopted both alternatives as its preferred alternative (PA), which is highlighted in bold.

Alternative 1. No action.

Alternative 2. Remove the EAG and WAI processing facility use caps at 50 CFR 680.7(a)(9).

Alternative 3. Exempt custom processing of BSS IPQ with a south-region designation, BBR IPQ, and WAG IPQ processed east of 174° W longitude from the PQS/IPQ and processing facility use caps under the program. Regionalization would still apply.

Regulatory Impact Review

This document is a Regulatory Impact Review Analysis (RIR). An RIR evaluates the economic benefits and costs of the action alternatives, as well as their distributional impacts.

This analysis considers two separate proposed actions that could permit increased consolidation or redistribution of crab processing within crab processing facilities for specific fisheries. The proposed actions could also increase crab processing flexibility and efficiency in the identified BSAI crab fisheries by permitting IPQ holders to better utilize available processing capacity at available facilities. This flexibility could limit operational disruptions in the case of recent and possible future low crab catch limits and may provide unaffiliated IPQ holders (i.e., IPQ holders with less than 10% common ownership in another BSAI crab processing facility) and harvesters that have share-matched with these IPQ holders more processing market opportunities. A summary of the expected impacts on processors, harvesters and communities from the RIR are provided in Table ES-1.

Alternative 1, No Action.

Alternative 1 represents status quo CR Program regulations which are summarized below.

The status quo regulations in 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. These limits are commonly referred to as “use caps”. Specifically, use caps detailed at §680.42(b) limit a person (or a CDQ group) to holding no more than 30% of the PQS initially issued in the fishery, and to using no more than the amount of IPQ resulting from that 30% of the PQS.¹ Additionally, no processing facility could be used to process more than 30% of the IPQ issued for a crab fishery (§680.7(a)(8)).

The CR Program calculates a person’s IPQ “use” by summing the total amount of IPQ that is:

- 1) held by that person (§680.7(a)(7));
- 2) held by other persons who are affiliated with that person through common ownership or control (§680.42(b)(3)(iv)); and
- 3) any IPQ crab that is custom processed at a facility an IPQ holder owns, with exemptions for specific crab fisheries.²

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.

The PQS/ IPQ use caps were instituted to prevent excessive consolidation of PQS and the resulting annual IPQ. Concerns were expressed that excessive consolidation could have adverse effects on 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.

¹ With a limited exemption for persons receiving more of the initially issued PQS.

² The custom processing exemptions under §680.42(b)(7) implicitly include non-exempt custom processing in the use cap calculation.

However, throughout the course of the CR Program, a few exemptions have been implemented regarding which IPQ would count towards the PQS/ IPQ use caps. First, **Amendment 27** implemented an exemption for 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. **Amendment 27** was designed to improve operational efficiencies in crab fisheries with historically low TACs or that occur in more remote regions, specifically for the following six fisheries:

- North-region of the BS *C. opilio* (BSS)
- Western AI golden king crab (WAG) processed west of 174 degrees W longitude
- Western AI red king crab (WAI)
- Eastern AI golden king crab (EAG)
- St. Matthew Island blue king crab (SMB), and
- Pribilof Islands red and blue king crab (PIK).

Through **Amendment 47** (effective 1/19/17) the EBT and WBT fisheries were added to the list of fisheries that were exempt from custom processing counting towards IPQ use caps. The unforeseen exit of one processor from WBT/ EBT processing resulted in less than the minimum number of processing companies 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 were constrained by IPQ use caps in the WBT/ EBT fisheries.

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% or greater ownership interest in the processing facility, provided that the facility at which the IPQ crab are custom processed meets specific location requirements.³ The exemption effectively removes the IPQ use cap so that more than 30% 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.

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 Right of First Refusal (ROFR) so long as the PQS is transferred from the initial recipient and the IPQ is 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.

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 northern or southern regional delivery requirements. If granted, any IPQ exempted from the regional delivery requirements is also not applied to a company's IPQ use cap.

³ The locational requirements are at §680.42(b)(7)(ii)(C). Under this action, these would remain.

Through **Amendment 27**, the Council recommended that crab that are custom processed in the identified 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 the catch were processed in one facility east of 174° W longitude.

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 longitude. 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.”

Effects of Alternative 2, Removing the EAG and WAI Processing Facility Use Caps

Overall, the expected impacts from Alternative 2 and Alternative 3 are similar and extremely dependent on factors external to the decisions around changing the facility and PQS/ IPQ use caps. It is important to note that consolidation of processing capacity can (and has in some recent cases) occurred under the status quo regulations. As demonstrated in the WBT and EBT fisheries in 2015, while use caps can guarantee market space, they do not guarantee that processing facilities will be available. The rising costs of labor and materials and the 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 BSS and BRR fisheries, it is unlikely that maintaining the PQS/ IPQ use caps as they are would alone motivate the continuation or the development of an additional processing facility able to receive EAG IPQ. Facilities that have recently received these crab species are diversified with other crab and/ or groundfish species.

Under Alternative 2, there would be no cap on the amount of EAG or WAI IPQ that may be processed at a single facility. If the EAG and WAI facility use caps were removed, there would be no regulations that prevent all EAG IPQ or, if open to directed fishing, WAI IPQ, from being processed in one facility.

However, in recent years, the primary effect of the facility use cap has likely been in influencing the relative amounts of EAG IPQ that are being used in the active EAG processing facilities, and not the number of facilities that are active. Under the status quo regulations, some unaffiliated EAG IPQ holders (and by extension the harvesters that have share-matched A class IFQ) have been constrained in their options for partnering with a facility for EAG custom processing. As described in the public comment letters, the UniSea processing facility in Dutch Harbor has approached the EAG facility use cap in many years and cannot accept additional EAG IPQ for custom processing. As described in the letters, Royal Aleutian Seafoods has been developing a live EAG crab market opportunity which may offer a premium

⁴ The reference to §680.42(b)(8) is citing an exemption for custom processed crab that are also exempt from regional delivery requirements.

price for harvesters and IPQ holders, as well as potentially benefiting communities through tax revenue. Current facility use cap regulations have recently constrained access to this market for some EAG IPQ and IFQ holders. When a facility is constrained by the facility use cap, these IPQ must be delivered elsewhere.

Therefore, Alternative 2 is expected to provide net benefits at the aggregated **processor facility level** as production efficiency is increased. Under Alternative 2 processing facilities that are approaching the facility use cap (i.e., Unisea) would be expected to have additional opportunity to custom process EAG IPQ and more flexibility with their own EAG IPQ. Increased competition within the processing sector due to more opportunity to custom process EAG could have distributional impacts for owners of processing facilities. The processor able to exceed the 60% facility use cap would be advantaged by this opportunity but that benefit will be at the cost of the processing facility that lost this EAG IPQ. Recently (in 2022/23), there have been two active EAG processors which are both diversified in other crab and groundfish species.

For both **EAG IPQ holders that are unaffiliated with a processing facility** (and therefore must custom process their IPQ), as well as **harvesters** that hold A class IFQ, the effect of this action depends on factors external to this proposed change, including whether the number of active processing facilities remains the same. If there continues to be at least two processing facilities available for EAG IPQ, this action may provide more market opportunities for custom processing EAG IPQ (as suggested in the public comment letters), increased facility competition, and overall increased production efficiency. If the number of available processing facilities drops to one, the opposite could be true. This action could lead to less market opportunities for custom processing IPQ EAG, and possible decreased facility competition. With recent EAG IPQ holdings that include affiliations with active processing facility owners (i.e., Unisea, and Westward, with Trident and Alyeska holding small amounts of IPQ; see Table A2-1) and the expectation that these entities would prefer to process their own IPQ, it is not expected that this level of consolidation would occur. However, this is dependent on external factors.

The effects of Alternative 2 on **communities** and community sustainability are expected to be relatively small. Historically EAG has primarily been delivered to Dutch Harbor/ Unalaska and Akutan, with some deliveries to Adak and deliveries to Anchorage during 2014 and earlier. While Alternative 2 would not prevent all the EAG fisheries from being delivered to one facility, if that occurred, based on recent deliveries, it is likely that that facility would be in Dutch Harbor/ Unalaska. In 2022/23, all EAG was delivered to two processing facilities in Dutch Harbor/ Unalaska. While there has been some recent redistribution away from Akutan, this is not due to the proposed action; this redistribution occurred under the status quo regulations. External factors can affect the overall processing distribution in the BS communities (e.g., stock status of other BSAI crab and salmon fisheries, Trident's decisions with regards to its Akutan plant, other climatic changes, etc.); however, it is expected that EAG processing will continue to be centralized in Dutch Harbor/ Unalaska. This means the expected economic activity, income generated, and tax revenue for associated processing communities are not expected to be marginally impacted by the proposed action. If a premium price can be generated from the sale of live EAG, this may result in a greater share of tax revenue for the associated community.

Effects of Alternative 3, Exempting All Custom Processed IPQ Crab from the PQS/ IPQ Use Caps

Under Alternative 3, custom processing arrangements for south-designated BSS IFQ, BBR IPQ and WAG IPQ processed east of 174° W longitude would no longer count against the PQS/ IPQ use cap if IPQ is processed at a shoreside processor or floating processor within community boundaries.⁵ This

⁵ For all species, if the IPQ is custom processed on a floating processor that is not located within the bounds of a community, the custom processed IPQ would not be exempt from the PQS/ IPQ limits under Alternative 3. This is part of current regulations at §680.42(b)(7)(ii)(B) for other species and is not proposed to be changed under Alternative 3

action would align the application of PQS/ IPQ use caps across all CR Program fisheries, effectively removing the consideration of facility ownership from the application of the PQS/ IPQ caps.

Similar to Alternative 2, Alternative 3 is expected to provide net benefits at the aggregated **processor facility level** as production efficiency is increased. Under Alternative 3 processing facilities that *would* have custom processed additional BBR IPQ, south-designated BSS IPQ, or WAG IPQ at their facility, *but for* the 30% PQS/ IPQ use cap, would have more flexibility. Further, it could prevent the stranding of IPQ. This could occur if there are not enough processing facilities available with independent ownership to remain under the 30% cap and process the full TAC (i.e., as was the case for WBT and EBT) or if low crab TACs and/ or other external factors necessitate reduced operations or operational flexibility. Again, there would be distributional impacts, including processor facilities that lose access to some IPQ given increased competition for the IPQ. However, this reduction of market barriers should result in greater efficiency at the aggregated processor level.

For both **IPQ holders that are unaffiliated with a processing facility** as well as **harvesters** that hold A class IFQ, external factors, such as the number of available processing facilities will dictate if and how benefits are realized and distributed. This action allows for the possibility of additional crab processing consolidation to a smaller number of processing companies and facilities, which may limit the market opportunities for unaffiliated IPQ holders and harvesters that have share-matched with them.⁶ However, it also allows for the possibility of existing crab processors to process greater than 30% of the IPQ. If the same number (or more) of processing facilities were in operation, but they had additional flexibility to do business with unaffiliated IPQ holders, this could increase market opportunities for IPQ holders and harvesters. In addition, if there are not enough independent processing facilities available to process all the IPQ, a situation could occur such as was the case for WBT and EBT, in which up to 10% of the IPQ/ IFQ could be stranded without additional flexibility as proposed in Alternative 3.

With the north/ south regional delivery requirements still in place for BSS, it would still not be possible for all the BSS IPQ to be processed in one facility under the proposed action (i.e., there would need to be at least one facility in each region to process BSS IPQ). However, if an exemption is permitted in the framework agreement as defined by designated parties (i.e., holders of Class A IFQ, holders of IPQ, and representatives of the affected community) this could lead to additional consolidation under Alternative 3.

Alternative 3 is expected to have a limited effect on **communities**. Under the current caps, in which custom processing counts against the cap of the processing plant owner, custom processing arrangements have facilitated the movement of shares among plants. As described under Alternative 2, external factors can greatly affect the overall processing capacity in the BSAI communities and processing decisions in ways that the existing caps do not prevent. The proposed action is not relevant if the processor would not be at or over the cap and a redistribution of IPQ occurs. Therefore, the effect of this action on communities will be determined by the extent to which the exemption would facilitate the movement of shares to, away from, or among communities. In recent years, this means the communities of Dutch Harbor/ Unalaska, King Cove, St Paul, Akutan, and Kodiak. In addition, if there are not enough independently owned processing facilities available to process all the IPQ, up to 10% of the IPQ/ IFQ could be stranded without the additional flexibility of Alternative 3, which may result in forgone tax revenue for communities.

for BBR, south-designated BSS and WAG processed east of 174° W longitude. There are no active floating processors that fall into this category currently, thus this situation is not further discussed in the analysis.

⁶ A certain type of harvesting quota share is required to 'share-match' with IPQ on a 1-1 basis. This is explained further in Section 3.2.1.

Table ES-1 Summary of expected impacts on processors, harvesters, and communities

| | Alternative 1 | Alternative 2 | Alternative 3 |
|---|--|---|---|
| | No Action. Status quo regulations (<i>Baseline for comparison</i>) | Remove the EAG and WAI processing facility use caps | Exempt custom processed IPQ of south-designated BSS, BBR, and WAG east of 174° W longitude from PQS/IPQ use caps |
| Impacts to owners of processing facilities | <ul style="list-style-type: none"> - Processing facilities east of 174° W longitude are each constrained to processing less than 60% of the EAG and WAI IPQ. - Persons are limited to holding and “using” no more than 30% of the south-designated BSS, BBR, and WAG east of 174° W longitude IPQ. | <ul style="list-style-type: none"> - Increased net benefits and efficiency as processing facilities have more opportunity to custom process EAG IPQ and more flexibility with their own EAG IPQ. May create production efficiency if WAI opens with a low TAC. - If the expanded flexibility means the EAG IPQ they previously custom processed moves to a different processor, there could be negative distributional impacts for this facility. | <ul style="list-style-type: none"> - Increased net benefits and efficiency as processing facilities have more opportunity to custom process BBR, south-designated BSS, and WAG IPQ. Additionally, they would have more flexibility with their own BBR, BSS and WAG IPQ, which may be especially beneficial under low crab TACs. - If the expanded flexibility means BBR, BSS, or WAG IPQ they previously custom processed moves to a different processor, there could be negative distributional impacts for this facility. |
| Impacts to IPQ holders with no processing facility ownership | <ul style="list-style-type: none"> - Unless other exemptions apply, this means at least 2 facilities are needed to process EAG and WAI and at least 4 unaffiliated facilities are needed to process the south-designated BSS, BBR, and WAG east of 174° W longitude IPQ. - Constrained efficiency and market opportunity in some cases if/ when use caps dictate which facilities are available for IPQ holders and associated harvesters. | <ul style="list-style-type: none"> - If the number of active processing facilities remains the same: more market opportunities for custom processing EAG IPQ, increased facility competition, and overall increased production efficiency. - If Alt 2 prompts a decrease in the number of active facilities: less market opportunities for custom processing IPQ EAG, and possible decreased facility competition (Possible impacts, but not expected given the recent IPQ holdings affiliated with active facilities; see Table A2-1.) | <ul style="list-style-type: none"> - If the number of active processing facilities remains the same: more market opportunities for custom processing BBR, BSS, and WAG IPQ, increased facility competition, and overall increased production efficiency. - If Alt 3 prompts a decrease in the number of active facilities: less market opportunities for custom processing BBR, BSS, and WAG IPQ, and possible decreased facility competition. (Possible impacts, but not expected given the recent IPQ holdings affiliated with active facilities; see Table A2-1.) - If external factors result in <4 unaffiliated processing facilities available to process BBR, BSS, or WAG IPQ, the TAC could still be fully processed if custom processed. |

| | Alternative 1 | Alternative 2 | Alternative 3 |
|-----------------------------------|---|--|--|
| Impacts to crab harvesters | <p>- If external factors result in <4 unaffiliated processing facilities available to process BBR, BSS, or WAG IPQ, up to 10% of the IPQ and matched IFQ crab could be stranded. This could impact IPQ holders, harvesters, and communities.</p> | <p>- If the number of active processing facilities remains the same: EAG harvesters could have increased market opportunities for A class IFQ.</p> <p>- If Alt 2 prompts a decrease in the number of active facilities: harvesters could experience a decrease in market access for EAG IFQ. Likely would still be multiple buyers at the remaining facility(ies). (Possible impacts, but not expected given the recent IPQ holdings affiliated with active facilities; see Table A2-1.)</p> | <p>- If the number of active processing facilities remains the same: BBR, BSS, and WAG harvesters could have increased market opportunities for A class IFQ.</p> <p>- If Alt 3 prompts a decrease in the number of active facilities: harvesters could experience a decrease in market access for BBR, BSS, and WAG IFQ. Likely would still be multiple buyers at the remaining facility(ies). (Possible impacts, but not expected given the recent IPQ holdings affiliated with active facilities; see Table A2-1.)</p> <p>- If external factors result in <4 independent processing facilities available to process BBR, BSS, or WAG IPQ, TAC could still be fully processed if custom processed.</p> |
| Impacts to communities | | <p>- Marginal impacts expected for communities. Consolidation can (and already has occurred) for EAG IPQ. In 2022/23 all EAG was delivered to Dutch Harbor/ Unalaska. It is expected EAG will continue to be centralized in Dutch Harbor/ Unalaska unless factors unrelated to this alternative motive expanded or shifted operations.</p> | <p>- Marginal impacts expected for communities. For recent years in which these fisheries have been open, IPQ for these species have been delivered to Dutch Harbor/ Unalaska, King Cove, St Paul, Akutan, Kodiak and Adak. Factors outside of the use caps are expected to greatly influence which communities would receive deliveries for these species in the future. Regional delivery requirements remain in place under the proposed action.</p> <p>- If external factors result in <4 independent processing facilities available to process BBR, BSS, or WAG IPQ, TAC could still be fully processed if custom processed.</p> |

1 Introduction

This document analyzes proposed actions that would apply to some crab fisheries in the Bering Sea/Aleutian Islands (BSAI). There are two actions under consideration that are not mutually exclusive. The first action would remove the 60% facility use caps on the processing of Eastern Aleutian Islands golden king crab (EAG) and Western Aleutian Islands red king crab (WAI). A separate proposed action considers exempting from Processors Quota Share/Individual Processing Quota (PQS/IPQ) use caps custom processing of IPQ for Bristol Bay red king crab (BBR), Eastern Bering Sea snow (BSS) crab with a south-region designation, and Western Aleutian Islands golden king crab (WAG) processed east of 174° West longitude. This second proposed action would align the application of the PQS/ IPQ use caps across all CR Program fisheries so that they do not include custom processed IPQ crab in any fishery when processed in a shoreside processor or stationary floating crab processor within a community boundary.

Minimal

Both proposed actions could allow additional consolidation of crab processing within facilities. However, regional delivery requirements would not be changed under the proposed action nor would the 30% cap on the amount of PQS and IPQ that could be held. The proposed actions could increase crab processing flexibility and efficiency in the identified Crab Rationalization (CR) Program fisheries by permitting IPQ holders to more efficiently utilize available facilities. This flexibility could limit operational disruptions in the case of recent and possible future low crab catch limits and may provide unaffiliated IPQ holders and harvesters more processing market opportunities. Regional delivery requirements would not be changed under the proposed action.

This document is a Regulatory Impact Review Analysis (RIR). An RIR evaluates the economic benefits and costs of the action alternatives, as well as their distributional impacts. This RIR addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act, and the Presidential Executive Order 12866. An RIR is a standard document produced by the North Pacific Fishery Management Council (Council) and National Marine Fisheries Service (NMFS) Alaska Region to provide the analytical background for decision-making.

1.1 History of this Action at the Council

In **June 2021**, Council reviewed several public comment letters⁷ 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 EAG and 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 CR 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.

At its **February 2023** meeting, the Council reviewed a discussion paper on the second request; a consideration of removing or changing EAG facility use caps. Public comment at this meeting brought

⁷ EAG facility use cap proposals: [City of Unalaska](#), [Poulsen](#), [Unisea](#), [Minor](#), [ICE](#).

forward an additional request to include exemptions to PQS/ IPQ use caps for custom processing for BBR and south- region designated BSS in the analysis (J. Iani, NPFMC oral public testimony, 2/10/2023).

Like the facility use cap, the proposer stated that the conditions under which the use caps were established have changed and moreover, the original concerns around custom processing have not materialized. With an expectation of low total allowable catch (TAC) in future seasons of BSS and BBR, the proposer stated that the PQS/ IPQ use caps will soon likely be constraining efficiency, opportunity, and competition in the processing of these two species.

In response at the **February 2023** meeting, the Council established a purpose and need statement and set of alternatives for both of these possible changes. The Council included the possible removal of the facility use cap for WAI under Alternative 2 in addition to EAG (see Section 2), stating this is the only other fishery this regulation applies to, and it may simplify regulations for a fishery that has been closed. The Council also included consideration of exempting the WAG IPQ processed east of 174° W longitude from the PQS/ IPQ use caps, along with south-region designated BSS and BBR, this is the last CR Program fishery for which custom processing still counts towards the PQS/ IPQ use caps. The proposed Alternative 3 would therefore align the application of PQS/ IPQ use caps across all CR Program fisheries.

In **October 2023**, the Council considered an Initial Review draft analysis. In response, it slightly modified the alternatives and adopted both as part of its Preliminary Preferred Alternative (PPA). Concern was expressed from Council members that a lack of unaffiliated processors could constrain the BBR fishery even in the upcoming 2023/24 season.

The Council took action to adopt both Alternative 2 and 3 as its preferred alternative (PA) in **December 2023**. It did not make any changes to the purpose and need or alternatives at this time. Rationale for this recommendation is included in Section 2.4.

1.2 Purpose and Need

The Council adopted the following problem statement to originate this action in **February 2023**:

Since implementation of the crab rationalization program in 2005, a significant percentage of crab processor shares have been acquired by participants that do not own processing facilities and are dependent on custom processing markets. Although custom processing was exempted from facility use caps for most BSAI crab fisheries in 2006, facility use caps were implemented for the Eastern Aleutian Islands golden king crab (EAG) fishery and the Western Aleutian Island red king fishery (WAI) fishery when processed east of 174° W longitude. The Council is considering eliminating the EAG and WAI processing facility use caps, to potentially increase the availability of custom processing services and the development of new product forms and markets.

In addition, recent declines in Bristol Bay red king crab (BBR) and Eastern Bering Sea (EBS) snow crab abundance have resulted in closures of commercial fishing seasons and increase the likelihood of low total allowable catch (TAC) limits in the near future. These changes have caused significant disruption to participants, including high costs and inefficiencies in the harvesting and processing of these crab species at low TAC levels. Custom processing of crab is exempt from IPQ use caps with the exception of BBR, EBS snow crab with a south-region designation, and Western Aleutian Island golden king crab (WAG) processed east of 174° W longitude. The Council is considering adding these fisheries to the custom processing exemption, to allow participants to increase efficiency and continue to derive benefits from the fisheries.

The Council is considering these changes while preserving overall ownership and entity use caps in the crab program to continue to limit consolidation.

2 Description of Alternatives

The Council adopted the following alternatives for analysis in February 2023. The action alternatives listed below (Alternatives 2 and 3) were designed to accomplish the stated purpose and need for the action. The action alternatives are not mutually exclusive. In October 2023, the Council slightly modified the alternatives and adopted both as part of its PPA. In December 2023, the Council adopted both alternatives as its PA, which is highlighted in bold.

Alternative 1. No action.

Alternative 2. Remove the EAG and WAI processing facility use caps at 50 CFR 680.7(a)(9).

Alternative 3. Exempt custom processing of BSS IPQ with a south-region designation, BBR IPQ, and WAG IPQ processed east of 174° W longitude from the PQS/IPQ and processing facility use caps under the program. Regionalization would still apply.

The proposed alternatives are further described in this section.

2.1 Alternative 1, No Action

Alternative 1 represents no action. Existing FMP provisions and regulations would remain in place as described in Appendix 1.

It would continue to be unlawful for any shoreside crab processor or stationary floating crab processor east of 174° W longitude to use more than 60% of the IPQ issued in the EAG or WAI crab QS fisheries unless that IPQ crab is subject to an exemption from regional delivery requirements.⁸

Additionally, any custom processed BSS IPQ with a south-region designation, BBR IPQ, and WAG IPQ processed east of 174° W longitude would continue to count towards the PQS/ IPQ use caps for the owner of the processing facility⁹, unless the IPQ qualifies for an ROFR exemption at §680.42(b)(7)(ii)(C).

2.2 Alternative 2, Remove Facility Use Cap for EAG and WAI (Preferred Alternative)

Alternative 2 would remove the EAG and WAI processing facility use caps at §680.7(a)(9). This regulation does not apply to any other fisheries. Regulations at §680.42(b) would continue to define the 30% PQS/ IPQ use caps which would apply to the direct and indirect PQS/ IPQ holdings of EAG and WAI. However, based on BSAI crab FMP Amendment 27 and regulations at §680.42(b)(7)(ii)(A)(2) EAG and WAI IPQ crab that is custom processed will not be counted towards this 30% cap for the owner of a processing facility or its affiliated entities.

2.3 Alternative 3, Exempt Custom Processed IPQ Crab from the PQS/ IPQ Use Caps (Preferred Alternative)

Alternative 3 would exempt custom processing of BSS IPQ with a south-region designation, BBR IPQ, and WAG IPQ processed east of 174° W longitude from the PQS/IPQ use caps. The proposed action would align the application of the PQS/ IPQ use caps across crab fisheries. Regulations at §680.42(b) would continue to define the 30% PQS/ IPQ use caps which would apply to the direct and indirect PQS/ IPQ holdings. Regionalization requirements at §680.40(b)(2)(iii) would continue to apply for certain crab fisheries.

⁸ §680.42(b)(8) (as stated at §680.7(a)(9)).

⁹ The IPQ use caps are at §§680.42(b)(1) and 680.7(a)(7)-680.7(a)(8).

2.4 Rationale for the Council's Preferred Alternative

In December 2023, the Council identified Alternative 2 and Alternative 3 as its PA. Council members cited that these actions are responsive to the purpose and need statement. The chosen alternatives are intended to provide additional flexibility for IPQ holders, processing facilities and harvesters that participate in the affected fisheries. Many IPQ holders do not own a processing facility and rely on custom processing agreements with plants to get the crab processed. Exempting custom processing from counting towards caps on the amount of crab that counts for individual facilities provides IPQ holders with a potentially larger market to custom process their crab.

In addition, the Council recognizes that the cost structure for processing is different under these current low crab TACs. Without the recommended actions, four unaffiliated processing facilities are required to operate in order to process the crab in the BBR, south designated BSS and WAG east of 174° W longitude. This is simply not economically viable for the very low amounts of crab given the high costs of operating a processing facility in the BS and AI. The action alternatives in the motion not only allows for more custom processing opportunities but also benefit the processing sector overall by not forcing more facilities than are needed to process relatively small TACs. The use caps can guarantee market space, but they cannot guarantee that the processor is viable, as reviewed in the analysis.

The effects on communities and community sustainability from the PA are expected to be minimal. Most, if not all of the IPQ will be processed in the same communities where it has recently been processed. And this action would help ensure that all available QS has an opportunity to be processed. This could benefit communities as QS would be less likely to be stranded.

The Council feel that this action is responsive to all the National Standards, but in particular, addresses National Standard 1, 5 and 7. Under National Standard 1, Alt 3 in particular seeks to provide an exemption to a regulatory constraint and aid participants in the BBR and WAG fishery to help them achieve optimal yield, by facilitating the harvesting and processing of entire TACs. The recommended action is responsive to National Standard 5 by considering efficiency and the utilization of fishery resources. Both action alternatives are expected to improve processing efficiency. Additionally, the recommended action is responsive to National Standard 5 in that it seeks to minimize costs and avoid unnecessarily duplication. Both action alternatives are expected to reduce resources needed to monitor and enforce the use cap regulations.

3 Regulatory Impact Review

The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) as amended through E.O. 14094, April 6, 2023 (88 FR 21879). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following Statement from the E.O.:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866, as amended by E.O. 14094 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise legal or policy issues for which centralized review would meaningfully further the President’s priorities or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

3.1 Statutory Authority

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, et seq.), the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone (EEZ). The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the Council has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish.

The EAG, WAI, BSS, BBR, and WAG crab fisheries in the EEZ off Alaska are managed under the FMP for the BSAI and Tanner crab. The proposed actions under consideration would amend this FMP and Federal regulations at 50 CFR 680. Actions taken to amend FMPs or implement regulations governing these fisheries must meet the requirements of applicable Federal laws, regulations, and Executive Orders.

3.2 Management of the Crab Fisheries

This section describes the relevant management components of the crab fisheries under the CR Program as well as some historical context for these regulations.

3.2.1 Crab Rationalization Management

Nine BSAI crab fisheries are managed under the CR Program, which was implemented on March 2, 2005 (70 FR 10174). The CR Program is a “voluntary three pie cooperative” program which allocates BSAI crab resources among harvesters, processors, and coastal communities. Program components include QS allocations, PQS allocations, IFQ and 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 TAC in a CR Program fishery. Approximately 97% of the QS (referred to as “owner QS”) in each program fishery (see Figure 3-1) were initially allocated to the License Limitation Program license holders based on their catch histories in the fishery. These owner QS were further allocated as catcher vessel owner (CVO) shares and catcher processor owner (CPO) shares, depending on the type of vessel the history was accrued from.

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. The C shares were also allocated as either catcher vessel crew (CVC) QS or catcher processor crew (CPC) shares, resulting in four different types of harvester QS.

An individual’s QS holdings equates to specific pounds of IFQ which is calculated on an annual basis. CVO 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, which is the annual issuance of PQS based on the TAC. 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. Class B IFQ, as well as C shares and Community Development Quota (CDQ) shares can be delivered to any registered crab receiver (RCR).

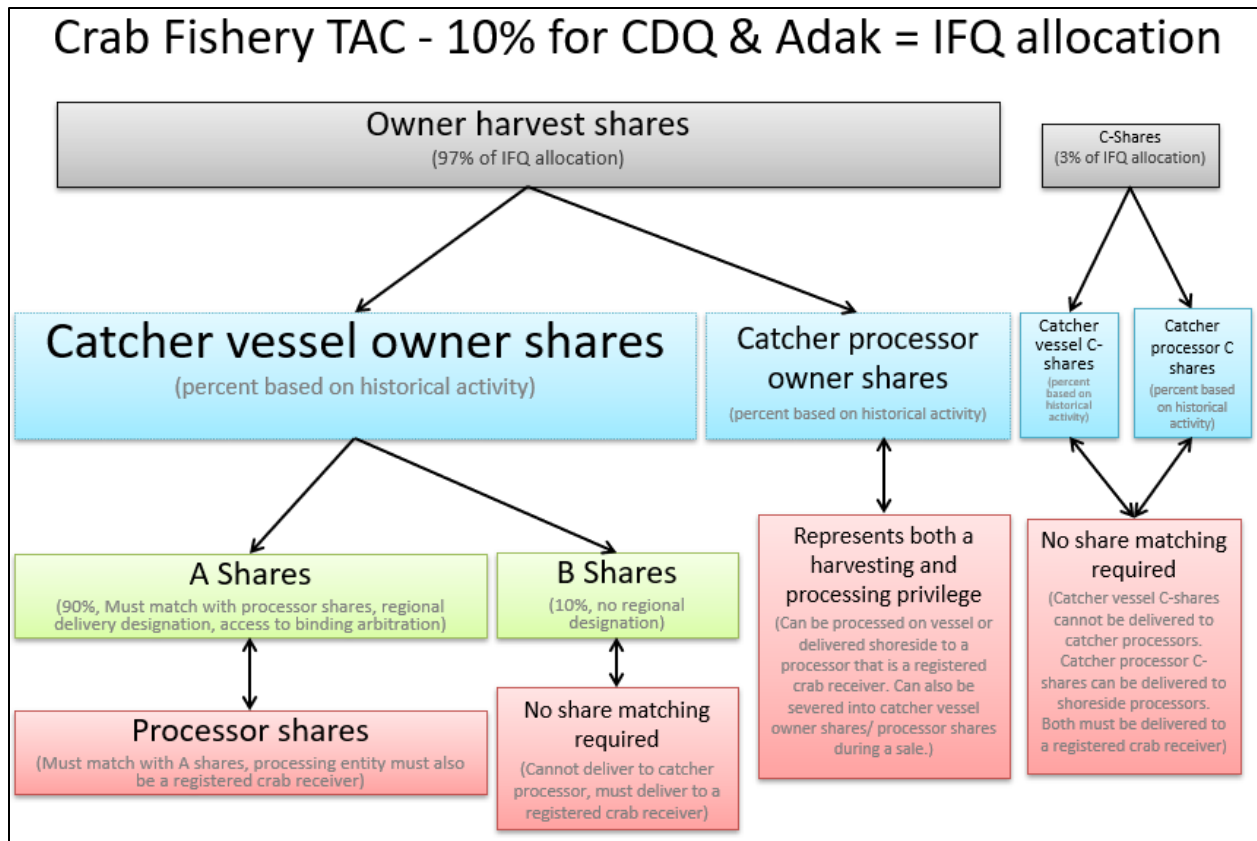


Figure 3-1 Diagram of quota shares in the CR Program

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

3.2.2 Regional Delivery Requirements and Exemptions

Table 3-1 identifies the regional delivery requirements for the CR Program. These delivery restrictions on 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, as well as C shares and CDQ shares, can be delivered to any processor that is an RCR, except a catcher processor, regardless of whether the processor holds unused IPQ. In addition, Class B and C 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 WAG 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-region delivery requirement were approved in 2011/12- 2016/17 and then again 2020/21 - 2023/24 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 BBR, BSS, SMB, EAG, WAI, and PIK.

Table 3-1 Regional designations in CR Program 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 CFR 680.40(b)(2)(iii)

3.2.3 Community Right of First Refusal

To protect community interests in the CR Program, 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% 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 EBT, WBT, WAI, and WAG – 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 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 3-2).

Table 3-2 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% 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 agree to a transaction 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.¹⁰ 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% 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% 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.

Under the ROFR provisions, a holder of PQS subject to a ROFR may use the IPQ yielded by its PQS in any location that it chooses (provided it complies with regional landing requirements).¹¹ However, the ROFR is triggered on the sale of IPQ, if more than 20% of the PQS holder’s community-based IPQ in the

¹⁰ This provision does not apply to custom processing arrangements, as no PQS or IPQ transfer occurs under those arrangements.

¹¹ 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.

fishery were processed outside the community by another company in 3 of the preceding 5 years. Therefore, for example, 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.

Table 3-3 demonstrates the percentage of the original PQS pool subject to a ROFR compared to the current ROFR holdings, specifically for BRR, BSS and EAG. The PQS associated with PIK and SMB fisheries also includes ROFRs, but given the analysis' focus on EAG in Alternative 2 and BBR and BSS through Alternative 3, these are the only fisheries highlighted in Table 3-3. At the time of initial allocation 96.6 % of the BBR, 97.2% of the BSS PQS, and 99.1% of the EAG had a ROFR.

Table 3-3 Distribution of rights of first refusal by community on implementation and the beginning of the 2022/23 season

| Fishery | Region | ROFR | Percentage of the original PQS pool | | Difference in % |
|----------------|----------------|-------------|-------------------------------------|------------|-----------------|
| | | | On initial allocation | In 2022/23 | |
| BBR | N | St Paul | 2.54% | 2.54% | 0.00% |
| | | None | 0.02% | 0.02% | 0.00% |
| | S | Akutan | 19.73% | 19.73% | 0.00% |
| | | False Pass | 3.71% | 3.71% | 0.00% |
| | | King Cove | 12.67% | 7.41% | -5.26% |
| | | Kodiak | 3.75% | 0.22% | -3.54% |
| | | Port Moller | 3.47% | 1.88% | -1.59% |
| | | Unalaska | 50.68% | 50.68% | 0.00% |
| | None | 3.43% | 13.81% | 10.38% | |
| Total BBR ROFR | | | 96.55% | 86.17% | -10.38% |
| BSS | N | St George | 9.66% | 0.00% | -9.66% |
| | | St Paul | 36.32% | 30.93% | -5.38% |
| | | None | 1.00% | 16.04% | 15.04% |
| | S | Akutan | 9.72% | 9.72% | 0.00% |
| | | King Cove | 6.27% | 6.27% | 0.00% |
| | | Kodiak | 0.14% | 0.01% | -0.13% |
| | | Unalaska | 35.04% | 35.04% | 0.00% |
| | None | 1.85% | 1.97% | 0.13% | |
| Total BSS ROFR | | | 94.72% | 84.21% | -10.51% |
| EAG | S | Akutan | 1.02% | 1.02% | 0.00% |
| | | Unalaska | 98.08% | 91.16% | -6.93% |
| | | None | 0.90% | 7.83% | 6.93% |
| | Total EAG ROFR | | | 99.10% | 92.17% |

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

3.2.4 PQS/ IPQ Use Caps and Exemptions

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 limits 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 §680.42(b) limited a person (or a CDQ group) to holding no more than 30% of the PQS, and to using no more than the amount of IPQ resulting that PQS initially issued in a given fishery, with a limited exemption for persons receiving more than 30% of the initially-issued PQS. Additionally, no processing facility could be used to process more than 30% of the IPQ issued for a crab fishery as specified at §680.7(a)(8).

The CR Program calculates a person's IPQ use 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)). 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, also with exemptions for certain fisheries. 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.¹²

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 typically occur when an IPQ holder does not own an onshore processing facility or cannot economically operate a stationary floating crab processor, or if the processing must occur (due to the regional designation) in a region where they do not own a processing facility.

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 BSS fishery from processing use caps established under the CR Program. **Amendment 27** implemented the exemption for north-region BSS and extended the exemption to a few other fisheries. Amendment 27 was designed to improve operational efficiencies in crab fisheries with historically low TAC 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) exempted IPQ crab processed under a custom processing arrangement from applying to a person's IPQ use cap in six specific BSAI crab fisheries.

¹² 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% equity in the holding entity have 100% of their PQS and IPQ holdings attributed to that entity. CDQ groups which hold at least 10% 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).

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* (BSS)
- Western AI golden king crab (WAG) processed west of 174 degrees W longitude
- Western AI red king crab (WAI)
- Eastern AI golden king crab (EAG)
- St. Matthew Island blue king crab (SMB), and
- Pribilof Islands red and blue king crab (PIK).

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 arrangements similar to those congressionally mandated for the north-region BSS 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% or greater direct or indirect ownership interest in the facility when those crab are custom processed in BRR, BSS with a south-region designation, EBT, WBT, and WAG processed east of 174° W longitude.

The Council's rationale for excluding these fisheries from the custom processing exemption to the IPQ use caps was as follows. First, BBR was assigned a relatively large TAC; 97.3% 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 relatively limited BBR TAC assigned in the north-region, processors could easily consolidate processing operations at a single facility within IPQ caps. Second, BSS with a south-region designation also was assigned a relatively large TAC, and the Council believed 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, EBT and WBT 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 WAG custom processed east of 174° W longitude was not necessary, given the multiple delivery locations available to harvesters delivering east of 174° W longitude.

Through **Amendment 47** (effective 1/19/17) the EBT and WBT fisheries were added to the list of fisheries that were exempt from custom processing counting towards IPQ use caps. The unforeseen exit of one processor from EBT/ WBT processing resulted in less than the minimum number of processing companies needed to process all the IPQ for these species without exceeding the IPQ use caps. This consolidation constrained the processors and created the potential for stranded Class A IFQ and IPQ. 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 EBT/ WBT fisheries. In recommending the emergency rule, the Council recognized that the processor consolidation that had occurred in the EBT/ WBT fisheries would likely continue to constrain processors operating in the EBT/ WBT 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 EBT/ WBT from PQS/ IPQ use caps.

A discussion paper followed action on Amendment 47, in which the Council considered options under a scenario where **Amendment 47** was repealed and a different, long-term solution would replace it (NMFS/

NPFMC 2017). Specifically, the discussion paper considered three options: 1) raise the WBT/ EBT crab IPQ use cap to 40 percent; 2) convert Class A IFQ shares to Class B IFQ shares; and 3) apply exemption only in years when capacity to process is not sufficient (i.e., when there are less than four processors).

The paper stated that the three options described did not appear to provide for opportunities to process WBT/ EBT crab more effectively than current management. Increasing the WBT/ EBT crab use cap would still allow for only three unique processors to be active in the WBT/ EBT fishery, as is currently the case. Replacing the custom processing provisions with an increased proportion of Class B IFQ relative to Class A IFQ would reduce but not eliminate the potential amount of "stranded" Class A IFQ, and would not necessarily increase the number of active processors. Establishing a trigger that relieves custom processing exemptions if a capacity threshold is met does not, in itself, guarantee that additional processors will enter the WBT/ EBT fishery, but it does impose additional administrative complexity, and costs for fishery participants to establish and maintain this trigger mechanism. Therefore, the Council chose to take no action relative to these alternatives, and **Amendment 47** remained in place.

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% or greater ownership interest in the processing facility. The exemption effectively removes the IPQ use cap so that more than 30% 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 held 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) of federal regulations 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 eight CR Program 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 is then custom processed in the community to which the current or former ROFR applies by a 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.

As described in Table 3-3, most of the BBR and BSS PQS is or was subject to ROFR. The WAG PQS is not subject to ROFR. Further determination of eligibility for an exemption under §680.42(b)(7)(ii)(C) includes PQS that has been transferred, is being used in the community of origin, and is not being processed by an RCR that was the initial recipient.

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 northern or southern regional delivery requirements. If granted, any IPQ exempted from the regional delivery requirements is also not applied to a company's IPQ use cap.

3.2.5 EAG and WAI Facility Use Cap

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 longitude 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 longitude.

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 longitude. 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).¹³

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.”

3.2.6 CDQ and ACA Allocations and CR Program Participation

The CR Program made changes in the BSAI crab allocations under the CDQ. 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)

¹³ The reference to §680.42(b)(8) is citing the exemption for custom processed crab that are also exempt from regional delivery requirements.

- 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%. Allocations by CDQ group are shown in Table 3-4 with 2022/23 as an example year of the pounds issued to each group through the CDQ program.

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.

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. 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 3-4 CDQ and ACA group allocations for CR Program fisheries and 2022/23 pounds issued

| Fishery | Group Allocation (as a % of program allocation) | | | | | | Adak allocation | Program allocation (% of TAC) |
|--------------|---|--------|---------|--------|---------|--------|-----------------|-------------------------------|
| | APICDA | BBEDC | CBSFA | CVRF | NSEDC | YDFA | ACA | |
| BBR | 17% | 19% | 10% | 18% | 18% | 18% | | 10% |
| BSS | 8% | 20% | 20% | 17% | 18% | 17% | | 10% |
| EBT | 10% | 19% | 19% | 17% | 18% | 17% | | 10% |
| WBT | 10% | 19% | 19% | 17% | 18% | 17% | | 10% |
| WAG | | | | | | | 100% | 10% |
| EAG | 8% | 18% | 21% | 18% | 21% | 14% | | 10% |
| WAI | 8% | 18% | 21% | 18% | 21% | 14% | | 10% |
| SMB | 50% | 12% | 0% | 12% | 14% | 12% | | 10% |
| PIK | 0% | 0% | 100% | 0% | 0% | 0% | | 10% |
| Fishery | Group Allocation (in pounds based on the 2022/2023 TAC) | | | | | | Adak allocation | Total pounds by fishery |
| | APICDA | BBEDC | CBSFA | CVRF | NSEDC | YDFA | ACA | |
| BBR | Fishery closed | | | | | | | 0 |
| BSS | Fishery closed | | | | | | | 0 |
| EBT | 11,630 | 22,097 | 22,097 | 19,771 | 20,934 | 19,771 | | 116,300 |
| WBT | 8,500 | 16,150 | 16,150 | 14,450 | 15,300 | 14,450 | | 85,000 |
| WAG | | | | | | | 173,000 | 173,000 |
| EAG | 26,560 | 59,760 | 69,720 | 59,760 | 69,720 | 46,480 | | 332,000 |
| WAI | Fishery closed | | | | | | | 0 |
| SMB | Fishery closed | | | | | | | 0 |
| PIK | Fishery closed | | | | | | | 0 |
| Total pounds | 46,690 | 98,007 | 107,967 | 93,981 | 105,954 | 80,701 | 173,000 | 706,300 |

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, CDQ groups may, and have, invested in both CVO and CPO QS (see NPFMC 2017 for CVO and CPO holdings by CDQ groups).

Some CDQ groups, specifically APICDA and CBSFA, also have influence in the acquisition of PQS as the ROFR holding entity for the communities they represent. 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 3-5 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 2022/23 season. In particular, CBSFA and APICDA CDQ groups have made investments in PQS holdings in all CR Program fisheries except for WAI. In addition, CVRF also holds PQS in the BSS fishery. While not a CDQ group, Kodiak Fisheries Development Association, the ROFR-holding entity for Kodiak, has also acquired PQS in the BBR, BSS, EBT, WBT, and SMB crab fisheries.

Table 3-5 CDQ group holdings of PQS, 2022/23

| Fishery | # of CDQ groups holding PQS | CDQ PQS units | % of Total PQS held by CDQ groups |
|----------------|------------------------------------|----------------------|--|
| BBR | 2 | 55,658,324 | 14% |
| BSS | 3 | 229,466,375 | 23% |
| EAG | 2 | 5,777,651 | 57% |
| EBT | 2 | 36,966,837 | 19% |
| PIK | 2 | 4,730,291 | 16% |
| SMB | 2 | 7,122,874 | 24% |
| WAG | 2 | 17,642,532 | 44% |
| WAI | 0 | - | 0% |
| WBT | 2 | 36,966,837 | 19% |

Source: AKR RAM Division QS database, sourced through AKFIN

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

3.3 Description of the Affected Crab Fisheries

This section provides description of the harvesting and processing sectors in the crab fisheries that could be affected by this action, including the two Aleutian Islands golden king crab (AIGKC) fisheries, WAI, BSS and the BBR fishery.

3.3.1 The EAG and WAG Fisheries

The Aleutian Islands king crab management area is Registration Area O (Table 3-2). 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.

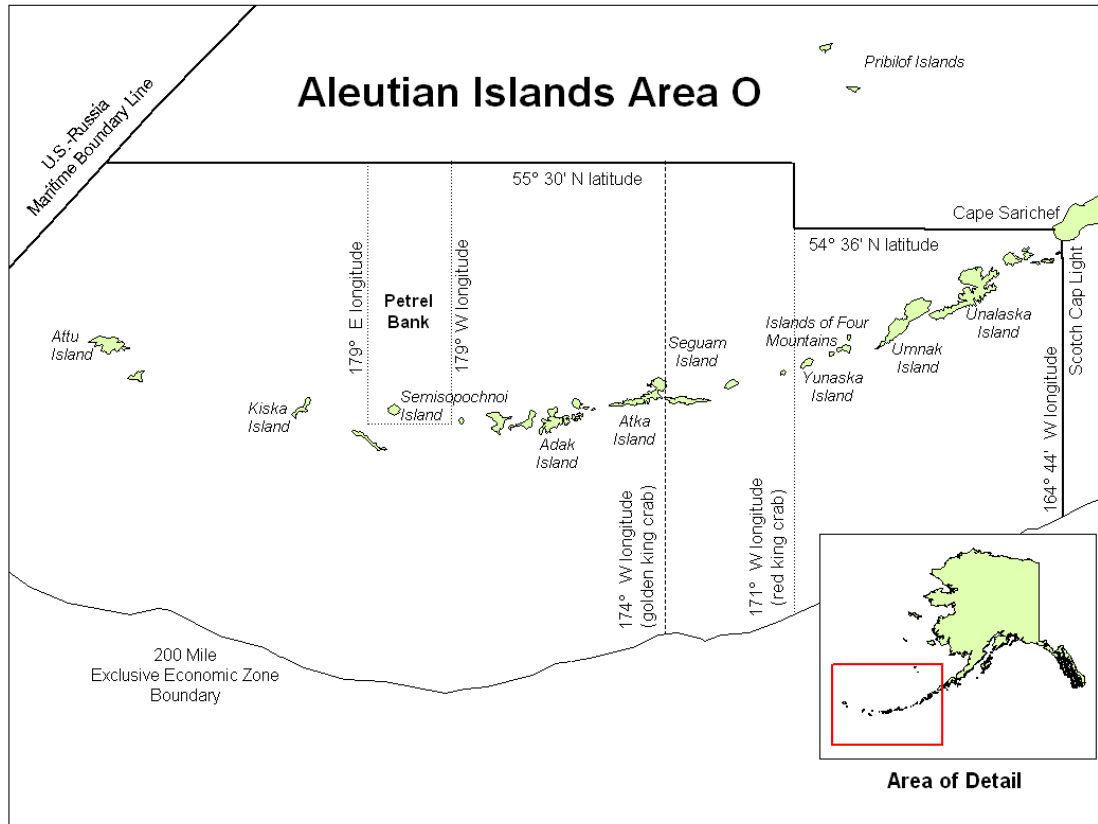


Figure 3-2 Aleutian Islands, Area O, red and golden king crab management area

Source: Nichols & Shaishnikoff (2022)

Notes: updated to show boundaries of the Adak and Petrel Districts for red king crab as established by the Alaska Board of Fisheries in March 2014

3.3.1.1 EAG/ WAG Harvesting

In recent years, the AIGKC fisheries have included five vessels: three in each fishery (Table 3-6). Since 2013/14, Aleutian Islands golden king crab 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 3-6 and Table 3-7). This includes IFQ, CDQ, ACA and estimated deadloss¹⁴ relative to the TAC. IFQ and CDQ crab are typically consolidated onto the same vessels.

¹⁴ 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 3-6 EAG allocation, harvest, number of vessels, landings, and value, 2002/03 – 2023/24

| Season | EAG | | | | | | |
|---------|--------------|--------------|---------|-------------|--------------|-----------------|-----------------------|
| | GHL/TAC (lb) | Harvest (lb) | Percent | Vessels (#) | Landings (#) | Ex vessel price | Total gross ex vessel |
| 2002/03 | 3,000,000 | 2,821,851 | 94.10% | 19 | 43 | \$3.33 | \$9,199,835 |
| 2003/04 | 3,000,000 | 2,977,055 | 99.20% | 18 | 37 | \$3.47 | \$10,065,228 |
| 2004/05 | 3,000,000 | 2,886,817 | 96.20% | 19 | 32 | \$3.18 | \$9,039,137 |
| 2005/06 | 3,000,000 | 2,866,602 | 95.60% | 7 | 39 | \$2.51 | \$7,117,132 |
| 2006/07 | 3,000,000 | 2,992,010 | 99.70% | 6 | 38 | \$1.71 | \$5,070,070 |
| 2007/08 | 3,000,000 | 2,989,997 | 99.70% | 4 | 42 | \$2.14 | \$6,365,457 |
| 2008/09 | 3,150,000 | 3,144,423 | 99.80% | 3 | 37 | \$3.42 | \$10,678,756 |
| 2009/10 | 3,150,000 | 3,150,474 | 100.00% | 3 | 39 | \$1.98 | \$6,174,304 |
| 2010/11 | 3,150,000 | 3,148,188 | 99.90% | 3 | 35 | \$3.03 | \$9,315,401 |
| 2011/12 | 3,150,000 | 3,150,374 | 100.00% | 3 | 41 | \$3.80 | \$11,880,146 |
| 2012/13 | 3,310,000 | 3,315,115 | 100.20% | 3 | 45 | \$3.47 | \$11,218,989 |
| 2013/14 | 3,310,000 | 3,302,061 | 99.80% | 3 | 42 | \$3.48 | \$11,376,784 |
| 2014/15 | 3,310,000 | 3,307,016 | 99.90% | 3 | 33 | \$3.34 | \$10,936,484 |
| 2015/16 | 3,310,000 | 3,302,480 | 99.80% | 3 | 34 | \$3.64 | \$11,815,476 |
| 2016/17 | 3,310,000 | 3,307,162 | 99.90% | 4 | 38 | \$4.52 | \$14,660,890 |
| 2017/18 | 3,310,000 | 3,308,185 | 99.90% | 4 | 40 | \$3.59 | \$11,691,725 |
| 2018/19 | 3,856,000 | 3,854,105 | 100.00% | 3 | 47 | \$4.50 | \$17,118,842 |
| 2019/20 | 4,310,000 | 4,308,530 | 100.00% | 3 | 48 | \$4.64 | \$19,740,830 |
| 2020/21 | 3,650,000 | 3,650,255 | 100.00% | 3 | 47 | \$4.56 | \$16,492,203 |
| 2021/22 | 3,610,000 | 3,614,798 | 100.10% | 3 | 47 | \$5.03 | \$18,046,612 |
| 2022/23 | 3,320,000 | 3,321,060 | 100.03% | 3 | 49 | NA | NA |
| 2023/24 | 3,720,000 | CF | CF | NA | 41 | NA | NA |

Source: Nichols & Shaishnikoff (2022); TAC, harvest, and landings for 2022/23 – 2023/24 the NMFS RAM, the 2023/24 data are current as of 11/13/23.

Notes: Guideline harvest level (GHL) pre-2005, total allowable catch (TAC) from 2005/06 onwards. Deadloss is included in the harvest amounts. Ex vessel price is average price per pound. NA means not available. CF means confidential.

Table 3-7 WAG allocation, harvest, number of vessels, landings, and value, 2002/03 – 2023/24

| Season | WAG | | | | | | |
|---------|--------------|--------------|---------|-------------|--------------|-----------------|--------------|
| | GHL/TAC (lb) | Harvest (lb) | Percent | Vessels (#) | Landings (#) | Ex vessel price | Total |
| 2002/03 | 2,700,000 | 2,640,604 | 97.80% | 6 | 73 | \$3.50 | \$9,117,906 |
| 2003/04 | 2,700,000 | 2,688,773 | 99.60% | 6 | 60 | \$3.83 | \$10,109,101 |
| 2004/05 | 2,700,000 | 2,688,234 | 99.60% | 6 | 51 | \$3.29 | \$8,706,763 |
| 2005/06 | 2,700,000 | 2,653,716 | 98.30% | 3 | 47 | \$2.12 | \$5,549,420 |
| 2006/07 | 2,700,000 | 2,270,332 | 84.10% | 4 | 37 | \$1.32 | \$2,978,071 |
| 2007/08 | 2,700,000 | 2,518,103 | 93.30% | 3 | 39 | \$1.79 | \$4,454,290 |
| 2008/09 | 2,835,000 | 2,535,661 | 89.40% | 3 | 42 | \$1.91 | \$4,791,631 |
| 2009/10 | 2,835,000 | 2,761,813 | 97.40% | 3 | 41 | \$1.96 | \$5,322,370 |
| 2010/11 | 2,835,000 | 2,820,661 | 99.50% | 3 | 38 | \$3.53 | \$9,803,355 |
| 2011/12 | 2,835,000 | 2,814,042 | 99.30% | 3 | 40 | \$3.72 | \$10,313,779 |
| 2012/13 | 2,980,000 | 2,952,644 | 99.10% | 4 | 36 | \$3.30 | \$9,554,574 |
| 2013/14 | 2,980,000 | 2,970,514 | 99.70% | 3 | 34 | \$3.50 | \$10,081,665 |
| 2014/15 | 2,980,000 | CF | CF | 2 | 44 | CF | CF |
| 2015/16 | 2,980,000 | CF | CF | 2 | 50 | CF | CF |
| 2016/17 | 2,235,000 | 2,236,651 | 100.10% | 3 | 37 | \$4.50 | \$9,664,768 |
| 2017/18 | 2,235,000 | 2,234,723 | 100.00% | 3 | 41 | \$3.67 | \$7,997,779 |
| 2018/19 | 2,500,000 | 2,501,344 | 100.10% | 3 | 36 | \$4.49 | \$10,987,299 |
| 2019/20 | 2,870,000 | 2,840,078 | 99.00% | 3 | 44 | \$4.50 | \$12,534,971 |
| 2020/21 | 2,960,000 | 2,792,835 | 94.40% | 3 | 38 | \$4.51 | \$12,311,834 |
| 2021/22 | 2,320,000 | 2,189,000 | 94.40% | 3 | 41 | \$5.49 | \$11,728,085 |
| 2022/23 | 1,730,000 | 1,728,720 | 99.93% | 3 | 43 | NA | NA |
| 2023/24 | 1,629,000 | CF | CF | NA | 16 | NA | NA |

Source: Nichols & Shaishnikoff (2022); TAC, harvest, and landings for 2022/23 – 2023/24 the NMFS RAM, the 2023/24 data are current as of 11/13/23.

Notes: Guideline harvest level (GHL) pre-2005, total allowable catch (TAC) from 2005/06 onwards. Deadloss is included in the harvest amounts. Ex vessel price is average price per pound. NA means not available. CF means confidential.

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 dates were moved 15 days earlier; August 1 to April 30. In the 2019/20 season, to accommodate vessels that were participating in the ADF&G survey, the season was 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 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 August 15, 2021 and in 2022 the first IFQ landing occurred August 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 BBR and BSS from some of the vessels. They use longlined pots, with an average of about 2,000 pots registered to each vessel (E. Nichols, 1/20/23, personal communication). The vessels rotate through the strings of pots they pull, leaving some strings while others are pulled and harvested crab is delivered to the shoreside processor. This results in significantly longer soak times than other CR Program fisheries. 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 (NPFMC 2017).

In both the EAG and WAG fisheries, harvest is fairly dispersed throughout the Aleutian Islands (Figure 3-3). 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.

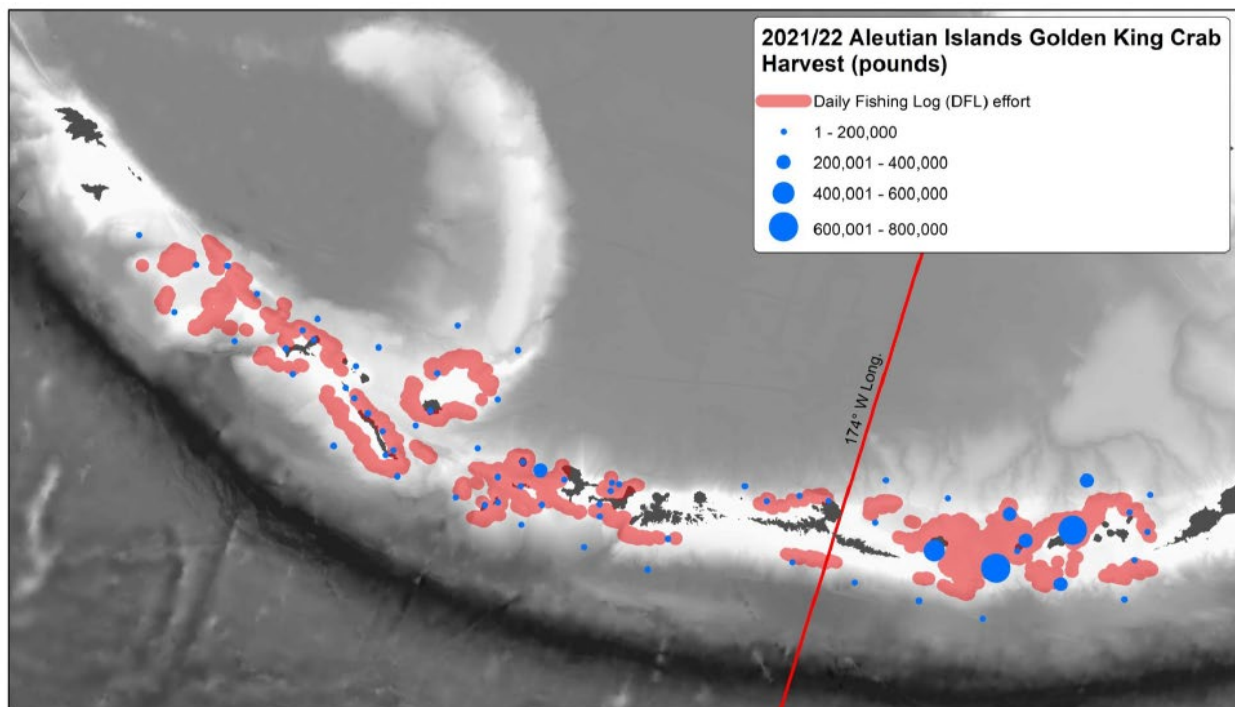


Figure 3-3 AIGKC harvest spatial distribution from 2021/22

Source: Daly & Milani (2022), 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

3.3.1.2 EAG/ WAG Processing

Several types of processing entities exist in the processing of CR Program crab and the affiliation of these entities is relevant for the application of PQS/ IPQ use caps. For instance, the PQS holder, IPQ holder, and the facility in which the crab is received and processed may or may not have corporate affiliations. Additionally, some processing companies own multiple facilities or are owned through an affiliated parent company. 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 IPQ holder has no ownership stake. This section describes some of these levels of processing engagement, to the extent possible given confidentially restrictions around landings data.

Although necessary for the monitoring and enforcement of processor use caps, the information presented in this analysis does not identify the affiliations between entities. Non-individual persons holding PQS are

required to provide a list of persons with an ownership interest in the non-individual PQS holder on an annual basis (§680.42(b)(3)). This list of owners must be provided to the individual level and include the percentage of ownership held by each individual. The annual submission of information must be submitted as part of the complete annual application for crab IFQ/IPQ permit. However, this information was not available for use in the analysis at this time; therefore, the discussion is focused around the number of entities and not how the entities may be affiliated. As IPQ holders unaffiliated with processor facility must have their IPQ custom processed, Appendix 2 provides the analysts’ best knowledge of IPQ holder affiliations with processing plants.

Additionally, specific data on the amount and value of custom processed crab is collected through the Economic Data Reports (EDRs) completed by the processing facility owners and RCRs annually. Processors/ RCR also report out on the fee paid for each crab product custom processed. In recent years these values have not been reported in the Crab Economic SAFE primarily due to the minimum aggregation standard that had been followed for EDR data. This aggregation standard meant that data was not displayed if it did not contain at least 5 data points from unique entities. This standard is elevated from the ‘rule of 3’ protocol that is applied to other confidential fisheries data. This elevated standard was discussed under the recent adoption of Amendment 52 to the Crab FMP which revised the EDRs. The analysis specifically highlighted that the small number of crab processors providing custom crab processing services prevents release of data reported for custom processing service fees paid by buyers and revenue received by custom process providers. In February 2022, the Council recommended to make confidentiality policy within the crab data collection program consistent with “the rule of 3” used in other Council/NMFS data reporting and analysis to improve the usability of the data. This change provides the opportunity for more of these data and trends to be displayed. However, this analysis was not able to be prepared in time for inclusion in this document. These values may be available for future Crab Economic SAFE reports or the forthcoming BSAI Crab Program review.

Table 3-8 and Table 3-9 demonstrate the number of processing entities that have participated at the different levels of engagement. The EAG fishery has had some changes in the PQS holders over the presented time series, in addition to some changes at all other levels of processing entities. The PQS holdings in the WAG fishery have not changed within the time series 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 prevalence of custom processing relationships is evident in comparing the number of active IPQ accounts with the number of active processing facilities.

Table 3-8 Number of EAG PQS holders, IPQ holders, and facilities 2012/13-2022/23

| | 2012/ 13 | 2013/ 14 | 2014/ 15 | 2015/ 16 | 2016/ 17 | 2017/ 18 | 2018/ 19 | 2019/ 20 | 2020/ 21 | 2021/ 22 | 2022/ 23 |
|----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| # of PQS holders | 10 | 10 | 9 | 9 | 9 | 10 | 10 | 10 | 10 | 10 | 10 |
| # of IPQ holder | 7 | 7 | 7 | * | 6 | 6 | 7 | 7 | 8 | 6 | 7 |
| # of processing facilities | 5 | 5 | 3 | 3 | 4 | 4 | 4 | 4 | 4 | 3 | 2 |

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>; Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

* Not included in the NMFS RAM dataset

Table 3-9 Number of WAG PQS holders, IPQ holders, and facilities, 2012/13-2022/23

| | 2012/ 13 | 2013/ 14 | 2014/ 15 | 2015/ 16 | 2016/ 17 | 2017/ 18 | 2018/ 19 | 2019/ 20 | 2020/ 21 | 2021/ 22 | 2022/ 23 |
|----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| # of PQS holders | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| # of IPQ holder | 7 | 6 | 7 | * | 6 | 6 | 6 | 6 | 7 | 6 | 6 |
| # of processing facilities | 5 | 5 | 4 | 3 | 5 | 4 | 3 | 3 | 4 | 3 | 2 |

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>; Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

Table 3-10 and Table 3-11 demonstrate the 2022/23 PQS holdings for the EAG and WAG fisheries. All of the EAG processing shares are assigned to 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 2022/23 season, there were also 10 PQS holders in the WAG fishery.

Table 3-10 EAG PQS holdings by region, 2022/23

| 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 3-11 WAG PQS holdings by region, 2022/23

| Share type | Share holdings by regional designation | | | | | Across regions | | |
|-----------------------|--|------------------|---------------|----------------|-------------------|------------------|----------------|-------------------|
| | Region | # of PQS holders | % of PQS 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% | 7.4% | 26.3% | | | |

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

Table 3-12 and Table 3-13 demonstrate EAG and WAG processing participation that has occurred at the facility level by crab fishing year. Between the 2012/13 and 2022/23 seasons, two to five facilities have received deliveries of EAG and of WAG. For EAG, three facilities have had consistent EAG processing participation throughout the timeseries (one in Akutan, two in Dutch Harbor/ Unalaska) until the 2022/23 year in which the Akutan facility did not process EAG. 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 3-12) has been near enough the EAG facility use cap in many years that it cannot accept addition custom processed EAG.

Table 3-12 EAG processing facilities, 2012/13-2022/23 crab year

| | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Adak | | | | | | | | | | | |
| Facility 1 | | | | | | | | x | | | |
| Akutan | | | | | | | | | | | |
| Facility 1 | x | X | x | x | x | x | x | x | x | x | |
| Anchorage | | | | | | | | | | | |
| Facility 1 | x | X | | | | | | | | | |
| Dutch Harbor/ Unalaska | | | | | | | | | | | |
| Facility 1 | x | X | | | x | x | x | | x | | |
| Facility 2 | x | X | x | x | x | x | x | x | x | x | x |
| Facility 3 | x | X | x | x | x | x | x | x | x | x | x |

Source: Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

Table 3-13 WAG processing facilities, 2012/13-2022/23 crab year

| | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-----------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Adak, AK | | | | | | | | | | | |
| Facility 1 | | | | | | x | x | x | | | |
| Facility 2 | x | | | | | | | | | | |
| Akutan, AK | | | | | | | | | | | |
| Facility 1 | x | X | x | x | x | | | | x | | |
| Anchorage, AK | | | | | | | | | | | |
| Facility 1 | x | X | | | | | | | | | |
| Facility 2 | | | x | | | | | | | | |
| Bellingham, WA | | | | | | | | | | | |
| Facility 1 | | | | x | | | | | | | |
| Facility 2 | | | | | x | | | | | | |
| Chinook, WA | | | | | | | | | | | |
| Facility 1 | x | | | | | | | | | | |
| Dutch Harbor/ Unalaska, AK | | | | | | | | | | | |
| Facility 1 | | | | | x | | | | x | | |
| Facility 2 | x | X | x | x | x | x | x | x | x | x | x |
| Facility 3 | x | X | x | x | x | x | x | x | x | x | x |
| King Cove, AK | | | | | | | | | | | |
| Facility 1 | | | | | | | | | | x | |

Source: Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

3.3.2 The WAI Fishery

The Aleutian Islands king crab management area is also Registration Area O (Figure 3-2). There are two districts for State management of commercial red king crab fisheries in waters of the Aleutian Islands west of 171° W longitude: the Adak District for waters east of 179° W longitude and the Petrel District for waters west of 179° W longitude. The WAI stock is sometimes referred to colloquially as the “Adak”

stock. This WAI fishery west of 179° W longitude has been managed within the CR Program, while the WAI fishery east of 179° W longitude is not included in the program.

The WAI fishery has been closed since the 2004/2005 season. The WAI stock assessment is conducted on a 3-year cycle. The most recent Stock Assessment and Fishery Evaluation Report (SAFE) states that Adak area surveys in 2002 and 2015 indicated very low legal male catch-per-unit-effort (CPUE). All survey data, especially the most recent Adak and Petrel Bank surveys indicate that stock is severely depressed, as all size sex category CPUEs are <0.3 crab per pot lift (Daly 2023).

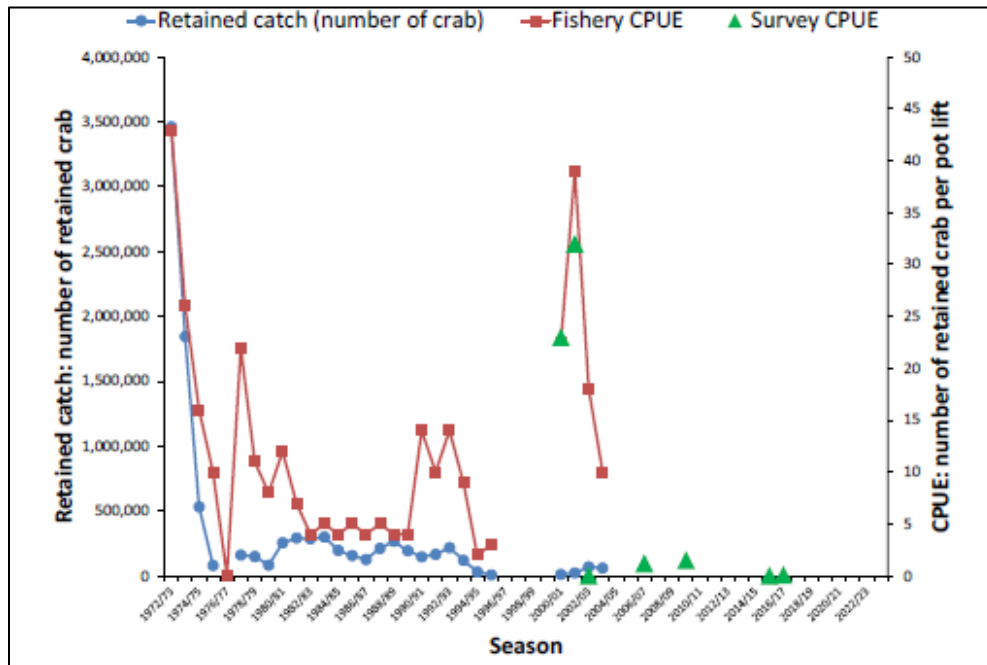


Figure 3-4 Retained catch (number of crab) and CPUE (number of retained crab per pot lift) in the western Aleutian Islands red king crab fishery, 1972/73–2022/23

Source: Daly (2023)

Notes: Data for 1972/73–1983/84 are for the area west of 172° W longitude; data for 1984/85–1997/98, 1999/00, and 2004/05–2022/23 are for the area west of 171° W longitude; data for 1998/99 are for the area west of 174° W longitude; and data for 2000/01–2003/04 are for the area between 179° W longitude and 179° E longitude. ADF&G survey legal male CPUE values are shown by green triangles.

Table 3-14 demonstrates the 2022/2023 PQS holdings for the WAI fishery. Processing shares for this fishery are all designated as south shares.

Table 3-14 WAI PQS holdings by region, 2022/2023

| Share type | Share holdings by region and operation type | | | | |
|-----------------------|---|------------------|--------------|----------------|-------------------|
| | Region | # of PQS holders | % of QS pool | Mean % holding | Maximum % holding |
| Processor quota share | South | 8 | 100.0% | 12.5% | 33.0% |

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

3.3.3 The BSS Fishery

The BSS fishery may operate in the Bering Sea District of Tanner crab Registration Area J (Table 3-5). This area includes all waters north of Cape Sarichef (54°36'N lat). The District is divided into the Eastern and Western Subdistricts at 173°W long. The Eastern Subdistrict is further divided into two sections: the Norton Sound Section north of the latitude of Cape Romanzof (61°49'N lat) and east of 168°W long, and the General Section south and west of the Norton Sound Section.

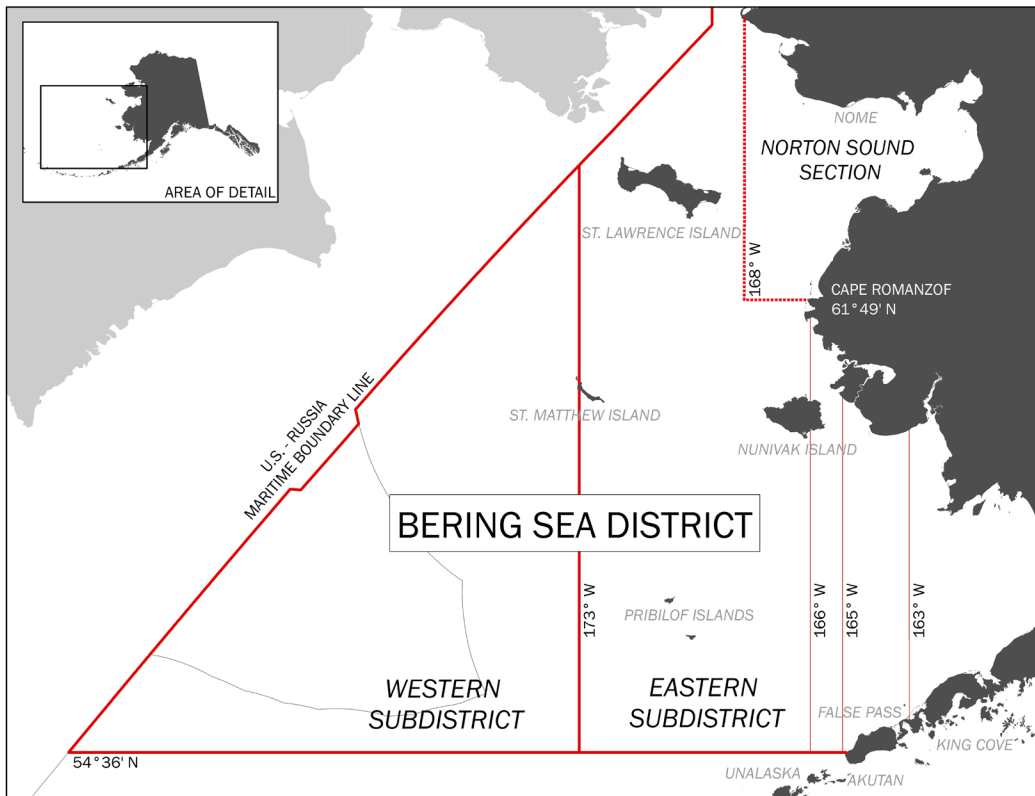


Figure 3-5 Bering Sea District Tanner crab commercial fishery Registration Area J, including subdistricts and sections

Source: Nichols & Shaishnikoff (2022)

3.3.3.1 BSS Harvesting

The largest volume of any crab species has been traditionally harvested in the BSS crab fishery. As a result of the 2021 stock assessment, the Council declared the BSS crab stock overfished on October 19, 2021, and the BSS fishery opened for the 2021/22 season with a sharply reduced TAC (Table 3-15). The BSS fishery TAC declined 88% from the 2020/21 season (45 million lb) to 5.6 million lb in the following 2021/22 season. The stock further declined in 2022 and the fishery was subsequently closed by ADF&G for the 2022/23 and 2023/24 season. The Council took final action on a preferred alternative rebuilding plan at its February 2023 meeting.

In years prior to the decline (pre-2021), the BSS crab fishery was harvested by an average of 67 vessels (2010/11-2020/21; Table 3-15). This fishery is made up primarily of catcher vessels delivering to on shore processing facilities as well as two catcher processor vessels in the years leading up to the closure (Garber-Yonts and & Lee 2022). These vessels typically harvest all the BS snow crab TAC, with an

average of 99.91% harvested since rationalization. This includes IFQ, CDQ and estimated deadloss relative to the TAC.

Table 3-15 also demonstrates the initial ex vessel prices and total gross revenue associated with the BS BSS fishery. In the last 2020/2021 season, BSS harvesters were paid an initial average price of \$4.45 per pound. This represents approximately \$24 million in total ex vessel value, dropping off from over \$100 million in the previous two years.

Table 3-15 BSS allocation, harvest, number of vessels, landings, and value, 2002/03 – 2023/24

| Season | BSS | | | | | | |
|---------|-----------------------|--------------|---------|-------------|--------------|-----------------|-----------------------|
| | GHL/TAC (lb) | Harvest (lb) | Percent | Vessels (#) | Landings (#) | Ex vessel price | Total gross ex vessel |
| 2002/03 | 25,610,000 | 28,316,923 | 110.57% | 190 | 285 | \$1.75 | \$48,496,278 |
| 2003/04 | 20,831,000 | 23,942,373 | 114.94% | 189 | 265 | \$2.04 | \$48,359,092 |
| 2004/05 | 20,932,000 | 24,892,128 | 118.92% | 168 | 219 | \$1.79 | \$44,144,504 |
| 2005/06 | 37,184,000 | 36,973,890 | 99.43% | 78 | 350 | \$1.51 | \$55,291,202 |
| 2006/07 | 36,566,000 | 36,355,649 | 99.42% | 69 | 307 | \$1.37 | \$49,111,061 |
| 2007/08 | 63,034,000 | 63,028,036 | 99.99% | 78 | 513 | \$1.63 | \$102,072,731 |
| 2008/09 | 58,550,000 | 58,547,849 | 100.00% | 77 | 487 | \$1.37 | \$79,464,730 |
| 2009/10 | 48,017,000 | 48,014,089 | 99.99% | 69 | 354 | \$1.13 | \$53,645,621 |
| 2010/11 | 54,281,000 | 54,263,200 | 99.97% | 68 | 386 | \$2.14 | \$115,523,133 |
| 2011/12 | 88,894,000 | 88,830,652 | 99.93% | 72 | 724 | \$1.89 | \$166,973,717 |
| 2012/13 | 66,350,000 | 66,254,528 | 99.86% | 70 | 505 | \$2.02 | \$113,088,320 |
| 2013/14 | 53,983,000 | 53,983,286 | 100.00% | 70 | 450 | \$2.15 | \$115,438,494 |
| 2014/15 | 67,950,000 | 67,941,587 | 99.99% | 71 | 543 | \$1.67 | \$112,275,497 |
| 2015/16 | 40,611,000 | 40,611,446 | 100.00% | 74 | 390 | \$2.01 | \$80,936,867 |
| 2016/17 | 21,570,000 | 21,570,915 | 100.00% | 63 | 266 | \$2.72 | \$58,026,393 |
| 2017/18 | 18,961,000 | 18,963,473 | 100.01% | 63 | 261 | \$3.00 | \$56,464,897 |
| 2018/19 | 27,581,000 | 27,578,224 | 99.99% | 61 | 313 | \$3.00 | \$82,036,383 |
| 2019/20 | 34,019,000 | 34,024,553 | 100.02% | 59 | 373 | \$3.15 | \$105,928,621 |
| 2020/21 | 45,000,000 | 45,001,190 | 100.00% | 62 | 407 | \$3.01 | \$132,857,821 |
| 2021/22 | 5,600,000 | 5,548,238 | 99.08% | 43 | 140 | \$4.45 | \$24,384,308 |
| 2022/23 | No commercial fishery | | | | | | |
| 2023/24 | No commercial fishery | | | | | | |

Source: Nichols & Shaishnikoff (2022)

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

Throughout the CR program (since 2005/2006), the BSS crab fishery has been open for 7 months, from October 15 to May 15. Harvest in the 2021/2022 season occurred from early January through May, with the last delivery on June 4. Vessels were active and average of 32 days of the 229-day season.

The average soak time in BSS crab fishery pre-program was 31 hours and increased to an average of 64 hours in first five seasons of the CR Program before decreasing to an average of 54 hours in more recent years (NPFMC 2017).

Harvest in 2021/2022 was distributed across 47 ADF&G statistical reporting areas with the highest concentration of harvest (29%) occurring in ADF&G statistical area 755930, southwest of Saint Matthew Island (Figure 3-6) (Nichols et al. 2022).

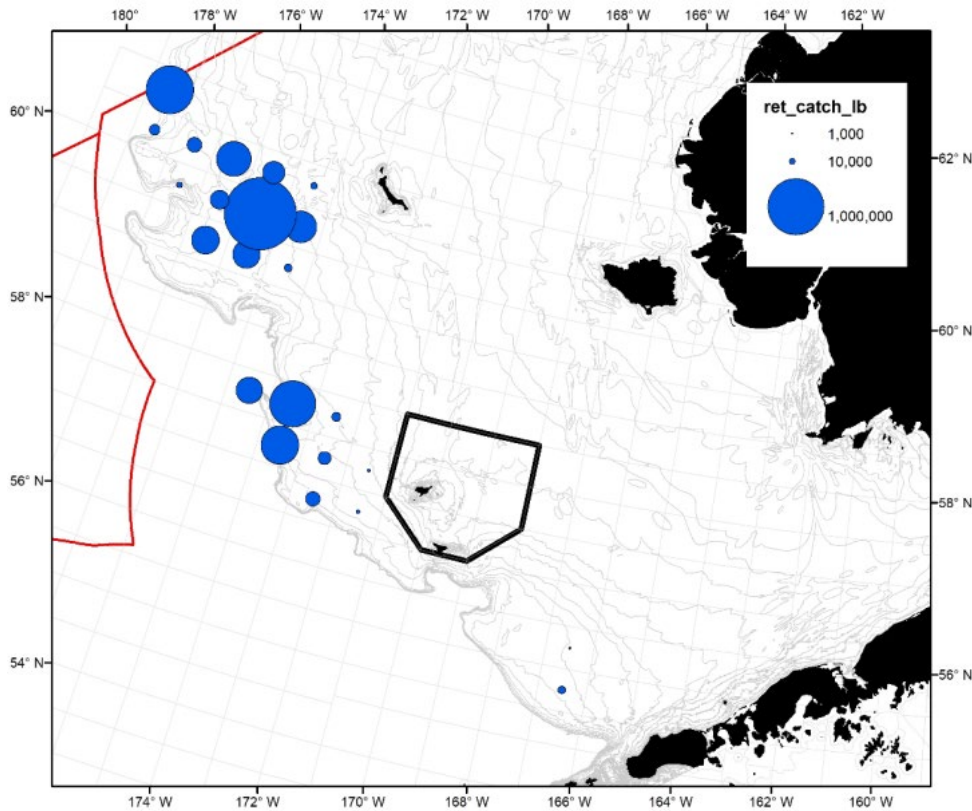


Figure 3-6 BSS harvest spatial distribution from 2021/22, excluding areas with <3 vessels

Source: Daly & Milani 2022, presentation to the Crab Plan Team, Slide 28, accessed at: https://meetings.npfmc.org/CommentReview/DownloadFile?p=4c1e3a70-a663-4d8d-9d8a-8b7aafa564b0.pdf&fileName=PPT_%202021_22%20Catch_presentation.pdf

3.3.3.2 BSS Processing

Table 3-16 demonstrates the number of processing entities that have participated in the BSS fishery at the different levels of engagement. The number of PQS, IPQ holders, and active processing facilities have all declined since 2012. Comparing the number of IPQ holders with the number of active processing plants makes evident the existence of custom processing arrangements in this fishery. The commercial BSS fishery was closed and no IPQ was issued for the 2022/23 season.

Table 3-16 Number of BSS PQS holders, IPQ holders, and facilities 2012/13-2022/23 crab year

| | 2012/ 13 | 2013/ 14 | 2014/ 15 | 2015/ 16 | 2016/ 17 | 2017/ 18 | 2018/ 19 | 2019/ 20 | 2020/ 21 | 2021/ 22 | 2022/ 23 |
|----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| # of PQS holders | 19 | 18 | 17 | 17 | 17 | 15 | 15 | 15 | 14 | 15 | 15 |
| # of IPQ holder | 15 | 14 | 10 | * | 10 | 11 | 10 | 10 | 10 | 9 | |
| # of processing facilities | 9 | 8 | 7 | 6 | 6 | 6 | 6 | 6 | 5 | 5 | |

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>; Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

* Not included in the NMFS RAM dataset

Table 3-17 demonstrates the 2022/2023 PQS holdings for the BSS fishery. Processing shares are split roughly evenly in this fishery between north- and south-regional designations.

Table 3-17 BSS PQS holdings by region, 2022/2023

| 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 | North | 7 | 47.0% | 6.7% | 15.5% | 15 | 6.7% | 25.2% |
| | South | 13 | 53.0% | 4.1% | 9.7% | | | |

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

Table 3-18 demonstrates BSS processing participation at the facility level by crab year. Between 2012/13 and 2022/23, five to nine facilities have received deliveries of BSS. Five facilities have had consistent processing through the 2020/21 and four throughout the timeseries when the commercial fishery was open. Data confidentiality requirements restrict displaying the amount of crab landed at each facility.

Table 3-18 BSS crab processing facilities, 2012/13-2022/23 crab year

| | 2012/ 13 | 2013/ 14 | 2014/ 15 | 2015/ 16 | 2016/ 17 | 2017/ 18 | 2018/ 19 | 2019/ 20 | 2020/ 21 | 2021/ 22 | 2022/ 23 |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Akutan | | | | | | | | | | | |
| Facility 1 | x | x | x | x | x | x | x | x | x | x | |
| Anchorage | | | | | | | | | | | |
| Facility 1 | x | | | | | | | | | | |
| Dutch Harbor/Unalaska | | | | | | | | | | | |
| Facility 1 | x | x | x | x | x | x | x | x | x | | |
| Facility 2 | x | x | x | x | x | x | x | x | x | x | |
| Facility 3 | x | x | x | x | x | x | x | x | x | x | |
| King Cove | | | | | | | | | | | |
| Facility 1 | x | x | x | x | x | x | x | x | | | |
| Facility 2 | | | | | | | | | | | x |
| Kodiak | | | | | | | | | | | |
| Facility 1 | x | x | x | | | | | | | | |
| Facility 2 | x | x | | | | | | | | | |
| St Paul | | | | | | | | | | | |
| Facility 1 | x | x | x | x | x | x | x | x | x | x | |

Source: Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

3.3.4 The BBR Fishery

Bristol Bay king crab Registration Area T includes all waters north of Cape Sarichef (54°36'N lat), south of Cape Newenham (58°39'N lat), and east of 168°W long (Figure 3-7).

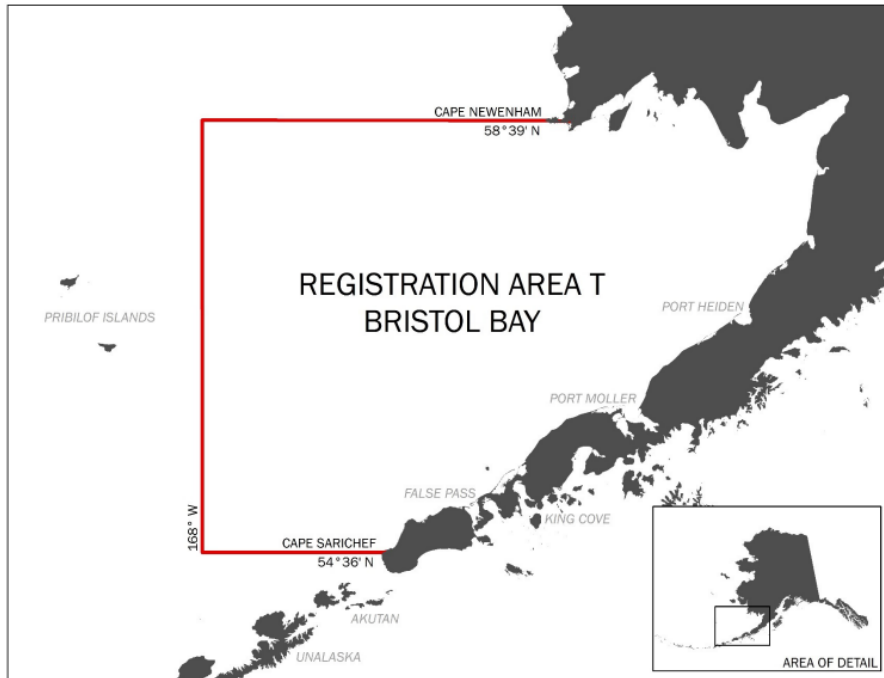


Figure 3-7 Bristol Bay, Area T, king crab management area

Source: Nichols & Shaishnikoff (2022)

3.3.4.1 BBR Harvesting

The BBR fishery has seen an 87% decline in TAC since the 2007/08 season when it was set at a CR Program peak of 20.38 million lb. The BBR fishery has not been declared to be overfished, however, the ADF&G closed the fishery for the 2021/22 and 2022/23 seasons due to the stock not meeting the thresholds outlined in the state harvest strategy (5 AAC 34.816). This was the first BBR fishery closure since the 1995/96 season. The BBR fishery opened for the 2023/24 season at a TAC of 2.15 million lb as mature female (8.4 million females) and effective spawning biomass (14.5 million lb) thresholds were met in the ADF&G harvest strategy after a 2-year closure. However, overall estimates of stock abundance remain low with minimal recruitment and uncertain future environmental conditions that will limit population growth and increase stock health risk with fishery removals at low population levels (NPFMC 23c, ADF&G 2023).

Historically, the BBR fishery has included between 47 and 64 vessels since the 2013/2014 season (Table 3-19). This fishery is made up of both catcher vessels delivering to on shore processing facilities with 1-2 catcher processor vessels operating each year (Garber-Yonts & Lee 2022). These vessels typically harvest all of the BBR TAC, with an average of 99.96% harvested since rationalization (Table 3-19, excluding the 2021/2022 closed season). This includes IFQ and CDQ and estimated deadloss relative to the TAC.

Table 3-19 also demonstrates the ex vessel prices and total gross ex vessel revenue associated with the BBR fishery. In the last fished season, 2020/2021, BBR harvesters were paid an average price of \$9.11 per pound. This represents approximately \$24 million in total ex vessel value, declining from a peak of approximately \$100 million in 2008/2009 before the closure of the commercial fishery in the 2021/2022 season.

Table 3-19 BBR allocation, harvest, number of vessels, landings, and value, 2002/03 – 2023/24

| Season | BBR | | | | | | |
|---------|-----------------------|--------------|---------|-------------|--------------|-----------------|-----------------------|
| | GHL/TAC (lb) | Harvest (lb) | Percent | Vessels (#) | Landings (#) | Ex vessel price | Total gross ex vessel |
| 2002/03 | 9,270,489 | 9,666,847 | 104.28% | 242 | 272 | \$6.13 | \$59,016,000 |
| 2003/04 | 15,713,000 | 15,728,256 | 100.10% | 250 | 296 | \$5.05 | \$78,253,116 |
| 2004/05 | 15,424,000 | 15,447,030 | 100.15% | 251 | 294 | \$4.64 | \$70,936,658 |
| 2005/06 | 18,329,000 | 18,309,335 | 99.89% | 89 | 296 | \$3.85 | \$70,086,741 |
| 2006/07 | 15,527,000 | 15,616,816 | 100.58% | 81 | 213 | \$3.37 | \$52,277,156 |
| 2007/08 | 20,383,000 | 20,366,065 | 99.92% | 74 | 281 | \$4.16 | \$84,211,504 |
| 2008/09 | 20,364,000 | 20,329,402 | 99.83% | 78 | 289 | \$4.97 | \$100,222,813 |
| 2009/10 | 16,009,000 | 15,932,654 | 99.52% | 70 | 233 | \$4.44 | \$70,172,988 |
| 2010/11 | 14,839,000 | 14,833,829 | 99.97% | 65 | 254 | \$6.31 | \$92,924,994 |
| 2011/12 | 7,834,000 | 7,833,594 | 99.99% | 62 | 161 | \$8.91 | \$69,479,174 |
| 2012/13 | 7,853,000 | 7,849,835 | 99.96% | 61 | 141 | \$7.28 | \$56,914,521 |
| 2013/14 | 8,600,000 | 8,600,476 | 100.01% | 53 | 156 | \$6.41 | \$54,763,067 |
| 2014/15 | 9,986,000 | 9,987,008 | 100.01% | 63 | 159 | \$6.05 | \$59,849,844 |
| 2015/16 | 9,974,000 | 9,969,964 | 99.96% | 64 | 152 | \$7.02 | \$68,754,179 |
| 2016/17 | 8,469,000 | 8,466,701 | 99.97% | 63 | 148 | \$9.06 | \$76,311,556 |
| 2017/18 | 6,601,000 | 6,600,922 | 100.00% | 61 | 142 | \$8.33 | \$54,792,098 |
| 2018/19 | 4,308,000 | 4,307,946 | 100.00% | 55 | 121 | \$8.45 | \$36,176,631 |
| 2019/20 | 3,797,000 | 3,791,569 | 99.86% | 56 | 116 | \$9.04 | \$34,208,234 |
| 2020/21 | 2,648,000 | 2,646,874 | 99.96% | 47 | 95 | \$9.11 | \$24,086,513 |
| 2021/22 | No commercial fishery | | | | | | |
| 2022/23 | No commercial fishery | | | | | | |
| 2023/24 | 2,150,000 | 2,060,525 | 95.84% | NA | 106 | NA | NA |

Source: Nichols & Shaishnikoff (2022); TAC, harvest, and landings for 2022/23 – 2023/24 the NMFS RAM, the 2023/24 data are current as of 11/13/23.

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

Since rationalization, the BBR season has been open for 3 months each year, starting on October 15th and closing on January 15th. Typically, most of the fishing effort occurs prior to the end of November.

In the last season the fishery was open, harvest was distributed across 11 ADF&G statistical reporting areas with the highest concentration of harvest (44%) occurring in ADF&G statistical area 625630, northeast of Amak Island (Figure 3-8; Nichols et al. 2021).

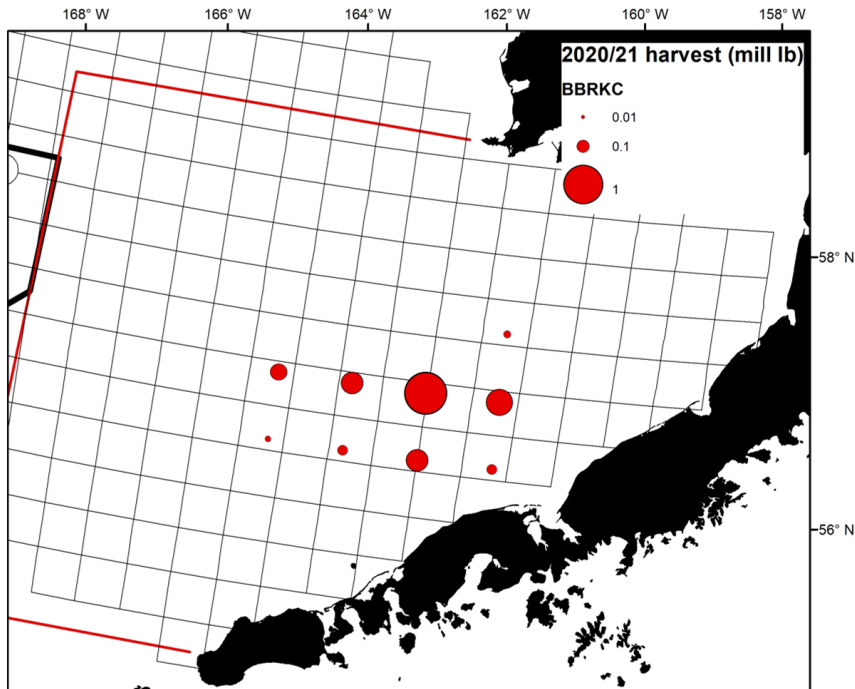


Figure 3-8 BBR harvest spatial distribution from 2020/21, excluding areas with <3 vessels

Source: Daly & Milani 2021, presentation to the Crab Plan Team, Slide 18, accessed at: https://meetings.npfmc.org/CommentReview/DownloadFile?p=e540773b-8abb-4456-b346-ecbe13a6bed8.pptx&fileName=2020_21_Catch_presentation.pptx

3.3.4.2 BBR Processing

Table 3-20 demonstrates the number of processing entities that have participated in the BBR fishery at the different levels of engagement. The number of PQS holders and processing facilities in this fishery have decline in the timeseries presented. The number of IPQ holders has generally declined as well; however, there was a slight increase in 2020/21. Comparing the number of IPQ holders with the number of active processing plants makes evident the existence of custom processing arrangements in this fishery. The BBR fishery was closed and no IPQ was issued for the 2021/2022 and 2022/23 season.

Table 3-20 Number of BBR PQS holders, IPQ holders, and facilities 2012/13-2022/23 crab year

| | 2012/ 13 | 2013/ 14 | 2014/ 15 | 2015/ 16 | 2016/ 17 | 2017/ 18 | 2018/ 19 | 2019/ 20 | 2020/ 21 | 2021/ 22 | 2022/ 23 |
|----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| # of PQS holders | 16 | 16 | 14 | 14 | 14 | 13 | 13 | 13 | 13 | 13 | 13 |
| # of IPQ holder | 13 | 13 | 10 | * | 10 | 10 | 9 | 8 | 11 | | |
| # of processing facilities | 10 | 8 | 7 | 8 | 8 | 8 | 7 | 6 | 7 | | |

Source: NMFS RAM, Permits and licenses: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#bsai-crab>; Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

* Not included in the NMFS RAM dataset

Table 3-21 shows holdings for the BBR fishery, this represents the most recent season in which commercial fishing in this fishery was open. The majority of processing shares, over 97%, in this fishery are assigned for the south-region.

Table 3-21 BRR PQS holdings by region, 2022/2023

| Share type | Share holdings by regional designation | | | | | Across regions | | |
|-----------------------|--|------------------|---------------|----------------|-------------------|------------------|----------------|-------------------|
| | Region | # of PQS holders | % of PQS pool | Mean % holding | Maximum % holding | # of PQS holders | Mean % holding | Maximum % holding |
| Processor quota share | North | 2 | 2.56% | 1.28% | 2.31% | 13 | 7.69% | 23.20% |
| | South | 13 | 97.44% | 7.50% | 21% | | | |

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

Table 3-22 demonstrates BBR processing participation at the facility level. Between 2012/13 and 2020/21, six to ten facilities received deliveries of BBR. Five facilities have had consistent processing throughout the timeseries when the commercial fishery was open. Data confidentiality requirements restrict displaying the amount of crab that has been landed at each facility.

Table 3-22 BBR processing facilities, 2012/13-2022/23 crab year

| | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Akutan | | | | | | | | | | | |
| Facility 1 | x | x | x | x | x | x | x | x | x | | |
| Anchorage | | | | | | | | | | | |
| Facility 1 | x | x | | | | | | | | | |
| Dutch Harbor/Unalaska | | | | | | | | | | | |
| Facility 1 | x | | | x | x | x | x | | | x | |
| Facility 2 | x | x | x | x | x | x | x | x | x | x | |
| Facility 3 | x | x | x | x | x | x | x | x | x | x | |
| King Cove | | | | | | | | | | | |
| Facility 1 | x | x | x | x | x | x | x | x | x | x | |
| Kodiak | | | | | | | | | | | |
| Facility 1 | x | x | | | | | | | | | |
| Facility 2 | | | x | x | x | x | x | x | x | x | |
| Facility 3 | x | x | x | x | x | x | | | | | |
| Facility 4 | x | | | | | | | | | | |
| St Paul | | | | | | | | | | | |
| Facility 1 | x | x | x | x | x | x | x | x | x | x | |

Source: Processing facilities identified through AKR RAM Division, sourced through AKFIN; ITO code from CRAT_Proc(8-22-23)

Note: This table is corrected from the Initial Review draft (NPFMC 2023) to include processing in St Paul in the 2020/21 season.

3.4 Crab Processing Community Profiles

This section profiles the communities that have been home to processors that have taken deliveries of crab from the BSAI crab fisheries and could be affected by this action. While communities are also connected to the CR Program fisheries through other avenues (e.g., community networks for crew, vessel owners, and QS/ PQS holders) these connections are not expected to be influenced by the proposed action.

Between 2015 - 2022, six communities had facilities that received deliveries of EAG, WAG, BBR or BSS crab (see Table 3-8, Table 3-9, Table 3-16, and Table 3-20). These include **Adak, Akutan, Dutch Harbor/ Unalaska, King Cove, Kodiak and St Paul**. These profiles are adapted from content produced by the community profiles (Fey et al. 2016), the 2023 Annual Community Engagement and Participation Overview (ACEPO; Wise, et al. 2023), and recently updated community profiles on Akutan and Unalaska (Downs & Henry 2023).

Adak

The City of Adak is located on Kuluk Bay on the northeastern side of Adak Island, approximately 1,126 miles southwest of Anchorage. Adak Island is part of the Andreanof Islands group of the Aleutian Islands, and Adak is both the southernmost town in Alaska and the westernmost town in the United States. Adak covers 122 square miles of land and 4.9 square miles of water.

Historically, the island was inhabited by the Unangan people (Aleuts) but was abandoned in the early 1800s due to the eastward shifting fur trade and famine. During World War II, Adak was used as an army installation, and was later converted to a naval air station. The naval station officially closed in 1997. The Aleut Corporation acquired the majority of Adak’s former military facilities in 2004. Since that time, the Aleut Corporation has continued its efforts to develop Adak as a civilian community with a private sector economy focused heavily on commercial fishing.

According to the American Community Survey, there were 171 residents in Adak in 2021. Additional demographic information is presented in Table 6.

Table 3-23 Adak demographic information (self-identified) as sourced from the 2021 ACS

| Population | Gender pop (%) | Pop under 5 (%) | Median household income (2021 \$) | White (%) | American Indian or Native Alaskan (%) | Black or African American (%) |
|---------------------|----------------------------|-----------------|-----------------------------------|-----------|---|-------------------------------|
| 171 | 35.8% female 64.2% male | 1.2% | \$57,500 | 51.1% | 4.2% | 8.4% |
| Below poverty level | Housing units | Pop over 85 (%) | Highschool graduate or higher (%) | Asian (%) | Native Hawaiian or Pacific Islander (%) | Hispanic or Latino (%) |
| x | 244 | 0.0% | 70.0% | 26.3% | 0.0% | 7.9% |

Source: ACS 2021, poverty threshold data unavailable

Adak is home to one large shore-based processing plant, which is currently not operational. The Adak shoreplant has had numerous ownership changes since its establishment in 1999 as Adak Seafoods. Most recently, the City of Adak has been financially involved in the local seafood processing plant as it bought processing equipment from a former plant operator and then financed the sale of the gear to the most recent plant operator, which ceased operations in June 2020.

Adak is not eligible to participate in the CDQ program, but Adak Community Development Corporation (ACDC) is considered a Community Quota Entity on behalf of the community, which allows ACDC to purchase halibut catcher vessel quota share assigned to Area 4B and sablefish quota share assigned to the Aleutian Islands. In addition, as a result of Congressional action it receives a 10 percent allocation of the total WAG TAC, the Adak Community Allocation (ACA), to help foster the development and maintenance of sustained fisheries participation. Congressional action has also provided an allocation of AI pollock to the Aleut Corporation for the benefit of Adak, outside of the CDQ program.

Adak serves as a refueling point for boats, and provides access to an airport, ship repair and a grocery store. There is also one vessel owner that operates out of Adak.

Akutan

Akutan is located on Akutan Island in the eastern Aleutian Islands, one of the Krenitzin Islands of the Fox Island group. The community is approximately 35 miles east of Unalaska and 766 air miles southwest of

Anchorage, the area occupies 14 square miles of land and 4.9 square miles of water. The broader area was historically occupied by the Unangan, and Akutan was used as a fur storage and trading facility starting in 1878. During World War II residents of the area were evacuated, and many former residents did not return after the reestablishment of the village in 1944.

In 1979, Akutan was incorporated as a 2nd Class City with a mayoral form of government and became a part of the Aleutians East Borough (AEB) when that was incorporated in 1987. The Akutan Corporation is the local Alaska Native Claims Settlement Act chartered village corporation, the Aleut Corporation is the regional ANCSA chartered corporation, and the federally recognized tribal entity in the community is the Native Village of Akutan.

As presented in ACEPO, the population of Akutan in 2020 was 760 individuals. Table 2 presents additional demographic information from ACEPO for the individuals of this community.

Table 3-24 Akutan demographic information (self-identified) as sourced from the 2020 ACS

| Population | Gender pop (%) | Pop under 5 (%) | Median household income (\$) | White (%) | American Indian or Native Alaskan (%) | Black or African American (%) |
|---------------------|----------------------------|-----------------|-----------------------------------|-----------|---|-------------------------------|
| 760 | 31.7% female 68.3% male | 2.5% | \$34,583 | 15.3% | 23.4% | 12.8% |
| Below poverty level | Housing units | Pop over 85 (5) | Highschool graduate or higher (%) | Asian (%) | Native Hawaiian or Pacific Islander (%) | Hispanic or Latino (%) |
| 23.3% | 80 | 0.8% | 83.3% | 29.6% | 0.0% | 19.1% |

Source: Wise et al. 2023

Akutan is a unique community in terms of its relationship to the Bering Sea commercial fisheries. It has been the site of one of the largest shoreplants in North America, Trident Seafoods, but it is also the site of a village that is geographically, demographically, socially, and historically distinct from the locally operating shoreplant. Akutan remains the only community in the region that is both a direct major/developed participant in multiple industrial scale fisheries of the Bering Sea and a CDQ community.

The vast majority of catch landed at the Trident Akutan plant comes from vessels based outside of the community. Most of those vessels focus primarily on pollock, Pacific cod, and crab. The shorebased processor is a multi-species plant. Given that the plant is an American Fisheries Act qualified plant with its own pollock co-op, pollock is the primary species in terms of labor requirements and economic value. However, the shore plant has also accounted for a significant amount of the regional crab processing, which has historically provided for a significant amount of the processing value at the plant (EDAW 2005). As with plants in Dutch Harbor and King Cove, crab has been an important part of a diverse operation at the shore plant in Akutan, since implementation of CR Program. Closure of the BBR fishery in 2021/22 and closures of both the BBR and BSS fisheries in 2022/23 had a substantial impact on this plant and associated tax revenue for the borough.

In 2022, Trident Seafoods announced plans to build a “next-generation processing plant” to replace its existing facility in Akutan.¹⁵ According to company sources, Trident was considering options for expanding its footprint in Akutan versus building a new plant on Unalaska’s Captains Bay on property it recently acquired through its subsidiary LFS. This operational move would represent a major realignment of regional tax revenue and economic activity. Between fiscal year 2010 and fiscal year 2020 direct fishery revenue represented between 75% - 98% of all general fund tax revenue for Akutan (Downs & Henry 2023).

¹⁵ <https://www.intrafish.com/processing/trident-looking-to-build-next-generation-processing-plant-in-alaska/2-1-1218482>

No vessels owned by Akutan residents have been active since 2021. In 2022, there were a small number of crew permits (4) and no commercial fishing permits issued.

King Cove

King Cove is located on the south side of the Alaska Peninsula and is about 605 miles southwest of Anchorage. The city was established in 1911, when Pacific American Fisheries constructed a salmon cannery. The city was incorporated in 1947 and encompasses 25.3 square miles of land and 4.5 square miles of water. The community lies on a sand spit, separated by King Cove Lagoon and King Cove, and is surrounded by rugged mountains. King Cove is an AEB community but not designed as a CDQ community.

As presented in ACEPO, the population of King Cove in 2020 was 1,147 individuals. Table 3 presents additional demographic information from ACEPO for the individuals of this community.

Table 3-25 King Cove demographic information (self-identified) as sourced from the 2020 ACS

| Population | Gender pop (%) | Pop under 5 (%) | Median household income (\$) | White (%) | American Indian or Native Alaskan (%) | Black or African American (%) |
|---------------------|----------------------------|-----------------|-----------------------------------|-----------|---|-------------------------------|
| 1,147 | 42.5% female 57.5% male | 4.4% | \$71,875 | 10.8% | 51.4% | 1.3% |
| Below poverty level | Housing units | Pop over 85 (5) | Highschool graduate or higher (%) | Asian (%) | Native Hawaiian or Pacific Islander (%) | Hispanic or Latino (%) |
| 18.6% | 386 | 3.5% | 85.1% | 24.4% | 0% | 6.5% |

Source: Wise et al. 2023

King Cove’s economy is solely dependent on commercial fishing and the seafood processing industry. There are two harbors that have moorage for 96 vessels with a maximum length 165 ft, as well as a deep water pier for the state ferry, cruise ships, and cargo vessels. The community is home port to large crab vessels, and is also home to Peter Pan Seafoods, the only shore-based processor located in the community. The plant processes salmon; crab; halibut; and groundfish. Although the plant operates year-round, its peak seasons are in the winter and summer, when it employs up to 500 people (Himes-Cornell et al. 2013).

In 2022, King Cove residents owned 10 active federally permitted fishing vessels. All of these commercial fishing vessels operated exclusively as catcher vessels, delivering to shoreside processors or motherships. These catcher vessels were less than 60 feet in length and deployed fixed gear or trawl gear (three boats used both). The pot fleet of King Cove has 8 vessels, followed by halibut (3 vessels), and trawl (3 vessels). King Cove had 108 crewmember licenses issued. In 2022, 86 commercial fishing permits were issued to and actively fished by King Cove residents, with salmon permits representing the largest number at 35, followed by 30 crab permits.

Kodiak

The largest island in the Gulf of Alaska is Kodiak Island, encompassing 6,559 square miles. The city of Kodiak is the largest community on the island, situated on the eastern tip about 219 nautical miles south of Anchorage. Kodiak has a long history and was originally inhabited by the Alutiiq for over 7,000 years. In the 18th century the large number of Russian settlers resulted in Kodiak being known as the capital of Russian Alaska. In the late 1800s, after the United States purchased Alaska from Russia, large-scale fish processing plants were developed, establishing Kodiak as a cornerstone in American fisheries.

As presented in the Alaska Fisheries Science Center’s Annual Community Engagement and Participation Overview (ACEPO), the population of Kodiak in 2020 was 12,787 individuals. Table 4 presents additional demographic information from ACEPO for the individuals of this community.

Table 3-26 Kodiak demographic information (self-identified) as sourced from the 2020 U.S. Census

| Population | Gender pop (%) | Pop over 18 (%) | Median household income (\$) | White (%) | American Indian or Native Alaskan (%) | Black or African American (%) |
|---------------------|----------------------------|-----------------|-----------------------------------|-----------|---|-------------------------------|
| 12,787 | 46.2% female 53.8% male | 76.1% | \$79,173 | 48% | 12.8% | 1.4% |
| Below poverty level | Housing units | Pop over 65 (%) | Highschool graduate or higher (%) | Asian (%) | Native Hawaiian or Pacific Islander (%) | Hispanic or Latino (%) |
| 7.5% | 5,848 | 13.2% | 89.6% | 23.6% | 0.8% | 8.7% |

Source: Wise et al. 2023

The city of Kodiak is largely dependent upon commercial fishing and the seafood processing industry. Kodiak is home to most of the island’s commercial fishing vessels and to the majority of the seafood processing plants. The economic value is evident in the large number of residents who own their own commercial fishing vessels, the size and number of seafood processing plants, as well as the size of the infrastructure that directly supports the fishing industry.

There are two main harbors in Kodiak, St. Paul Harbor and St. Herman Harbor (also known as Dog Bay), and together they possess 575 slips for commercial and recreational vessels. St. Herman Harbor is the larger of the two harbors and can accommodate vessels up to 150 feet in length. Kodiak’s dependence on the fishing industry is apparent in the large number of commercial fishing permits and crewmember licenses issued to its residents in 2022. In this year, 526 commercial fishing permits were actively fished by Kodiak residents, with salmon permits representing the largest number at 233, 96 crab, 84 halibut permits, and 76 groundfish permits. In 2022, 604 Kodiak residents obtained crewmember licenses, 42 of those were not permanent Alaskan residents. Kodiak residents held 45 halibut charter halibut permits in 2023. Preliminary estimates for 2021, demonstrated 12,797 charter halibut angler days (defined as trips with halibut harvested, bottomfish hours recorded, and/or bottomfish stat areas recorded) out of Kodiak.

In 2022, Kodiak residents owned 134 active federal fishing vessels. Two vessels had activity as catcher processors. Most of the vessels participated in multiple fisheries, switching their gear to adapt to different fisheries and seasons. The highest number of vessels participated in the Central Gulf halibut fishery (63). Of the vessels 20 carried trawl gear and 114 carried fixed gear. Groundfish made up the largest portion of all ex vessel value at (\$44M) followed by salmon at \$38M, and halibut at \$19M. On a species basis Pacific cod and pollock were the two most valuable federally managed species. Pacific cod is harvested by a variety of groups with the pot vessels as the largest user while pollock is mainly utilized by the trawl vessels.

In 2022, Kodiak had 7 active shore-based processors. Landings from the federal fishery accounted for 68% of the ex vessel value received by Kodiak processors. The Central Gulf trawl fishery comprised 37% of the federal value with pollock accounting for \$28M or 28% of the federal ex vessel value. Halibut and Sablefish deliveries followed Pollock at \$22M and \$17M respectively.

Saint Paul

The community of St. Paul is located on a narrow peninsula on the southern tip of St. Paul Island, the largest of the five Pribilof Islands. It lies 47 miles north of St. George Island, 240 miles north of the Aleutian Islands, 300 miles west of the Alaska mainland, and 750 air miles west of Anchorage. St. Paul

Island is located in the Aleutian Islands Recording District. The community encompasses 40.3 square miles of land and 255.2 square miles of water.

As presented in ACEPO, the population of St Paul in 2020 was 399 individuals. Table 5 presents additional demographic information from ACEPO for the individuals of this community.

Table 3-27 St Paul demographic information (self-identified) as sourced from the 2020 ACS

| Population | Gender pop (%) | Pop under 5 (%) | Median household income (\$) | White (%) | American Indian or Native Alaskan (%) | Black or African American (%) |
|---------------------|----------------------------|-----------------|-----------------------------------|-----------|---|-------------------------------|
| 399 | 32.8% female 67.2% male | 5.8% | \$63,571 | 4.8% | 84.0% | 2.0% |
| Below poverty level | Housing units | Pop over 85 (5) | Highschool graduate or higher (%) | Asian (%) | Native Hawaiian or Pacific Islander (%) | Hispanic or Latino (%) |
| 22.5% | 162 | 0.0% | 55.5% | 0.5% | 0.0% | 9.3% |

Source: Wise et al. 2023

The economy in St. Paul has focused on servicing the commercial fishing industry and the city is a port for the Central Bering Sea fishing fleet. Unlike King Cove, Akutan, or Unalaska, the majority of fisheries revenue for St. Paul depends almost entirely upon the processing of crab, with some halibut from local vessels typically processed in summer months as well. One shorebased processor exists on St. Paul Island, Trident Seafoods. Prior to the decline of the BSS stock and closure of the fishery in 2022/23, Trident Seafoods’ processing operation in St. Paul was the largest crab production facility in the world (Himes-Cornell et al., 2013). With the majority of St. Paul’s municipal tax revenue generated from fish tax, the closures of the BBR and BSS crab fisheries have been particularly devastating to this community which is so dependent on crab.

St. Paul is a primary beneficiary of the north regional distribution of shares in the CR Program. This restriction on landings ensures that, when open, a substantial portion of the processing in the BSS fishery is undertaken in St. Paul. The community of St. Paul also participates in the Western Alaska CDQ Program, under the Central Bering Sea Fishermen’s Association (CBSFA), and receives an allocation of crab under that program.

St. Paul Island had also historically been the site of a number of mobile processing operations over the years either inside the harbor (with larger operations including UniSea and Icicle) or in the area but outside the harbor (including Norquest and a number of others) as the nature of the fishery and its economic incentives dictated, and by limitations imposed by weather.

No vessel owned by Saint Paul residents has been active since 2021. There were a small number of crew permits (3) and commercial fishing permits issued (6) to community residents. All commercial fishing permits were halibut permits.

Unalaska/ Dutch Harbor

The City of Unalaska and the port of Dutch Harbor are about 766 miles southwest of Anchorage, located on the Islands of Unalaska and Amaknak. The communities are connected by a bridge and are handled as a single community for this profile because of their socioeconomic interdependencies. The City of Unalaska became incorporated in 1942 and it encompasses 111.0 square miles of land and 101.3 square miles of water.

As presented in ACEPO, the population of Unalaska in 2020 was 4,758 individuals. Table 6 presents additional demographic information from ACEPO for the individuals of this community.

Table 3-28 Unalaska demographic information (self-identified) as sourced from the 2020 ACS

| Population | Gender pop (%) | Pop under 5 (%) | Median household income (\$) | White (%) | American Indian or Native Alaskan (%) | Black or African American (%) |
|---------------------|----------------------------|-----------------|-----------------------------------|-----------|---|-------------------------------|
| 4,758 | 36.8% female 63.2% male | 3.6% | \$90,938 | 26.5% | 2.5% | 2.6% |
| Below poverty level | Housing units | Pop over 85 (5) | Highschool graduate or higher (%) | Asian (%) | Native Hawaiian or Pacific Islander (%) | Hispanic or Latino (%) |
| 2.0% | 1,319 | 0.3% | 91.5% | 48.8% | 2.5% | 14.9% |

Source: Wise et al. 2023

After World War II, the community evolved into the busy and prosperous commercial fishing and seafood processing port, and today it yields the nation’s largest volume of landings. The city owns six marine facilities, but fishing vessels are mainly moored at the Robert Storrs and Carl E. Moses boat harbors, or at the Spit Dock. The Carl E. Moses and Robert Storrs facilities consist of 52 and 71 slips, respectively, whereas the Spit Dock has 2,400 linear feet of dock, along with multiple berths for long- and short-term moorage. Plans are underway to upgrade the Robert Storrs Small Boat Harbor with an additional 40 slips.¹⁶

Commercial fishing and seafood processing play a significant role in the economic success of Unalaska. Major varieties of fish processed in Unalaska include king crab, Tanner crab, pollock, Pacific cod, salmon, herring, halibut, sablefish, turbot, Atka mackerel, and rockfish. As a result, commercial fishing and seafood processing provide a significant number of jobs and income to the community. For example, three of the largest employers in Unalaska are UniSea, Inc., Westward Seafoods, and Alyeska Seafoods, Inc. (EDAW 2005).

Dutch Harbor based processors received a substantial share of the PQS allocation in most crab fisheries under the CR Program. These shares are subject to rights of first refusal of the Dutch Harbor community entity. These shares are unlikely to migrate out of the community because crab processing at most facilities plays an important part in an integrated operation that serves several fisheries.

Unlike many of the crab ports in the region, Unalaska also has extensive support services for the BS fisheries. The support services in Unalaska can support all range of services for any vessel class in the pollock, crab, and other groundfish fisheries. As a result, the support services are heavily dependent upon the success of the groundfish and crab fisheries. To some extent, the fleet services also contribute to the diversification of the Unalaska economy, which helps insulate the community from negative changes in individual fisheries.

Residents own 3 federally permitted fishing vessels that were active in 2022. All of these commercial fishing vessels operated exclusively as catcher vessels, delivering to shoreside processors or motherships; were less than 60 feet in length; and utilized fixed gear (i.e., pots, hook and line). Due to confidentiality constraints with too few entities, the specific activity of the Dutch Harbor/Unalaska fleet is withheld, as is shoreside processing. There were a substantial number of crew permits (68) and commercial fishing permits issued (28).

¹⁶ <https://www.kucb.org/industry/2023-06-14/small-boat-harbor-to-get-long-awaited-upgrade>

3.5 Analysis of the Impacts

This section presents a discussion of the expected effects of the two proposed actions, relative to no action and the status quo regulations.

3.5.1 Alternative 1, No Action

Alternative 1 represents status quo CR Program regulations. Under no action, processing facilities east of 174° W 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. Additionally, under Alternative 1, IPQ under custom processing arrangements for south-region designated BSS, BBR, and WAG IPQ processed east of 174° W longitude would continue to count against the 30% PQS/ IPQ use cap as described in Section 3.2.4, unless it is subject to an exemption through ROFR (Amendment 27) or regionalization exemption (Amendment 41).

EAG/ WAI Facility Use Cap

The facility use cap that applies to the EAG and WAI fisheries was put in place due to concerns around the ability for processors west of 174° W longitude (i.e., Adak, Atka) to effectively compete for EAG and WAI. The purpose of the 60% facility use cap was to ensure that one processor east of 174° W longitude did not process all of the IPQ associated with each species, since all of the Class A IFQ is designated for processing in the south-region. The facility use cap does not require EAG or WAI be delivered to a facility west of 174° W longitude (as a West-regional delivery designation would). However, it does require that a least two physical plants process the EAG IPQ and, if open in future years, the WAI IPQ.

As demonstrated in Table 3-12, between 2012/13 and 2022/23, facilities in Akutan and Dutch Harbor/ Unalaska have received the majority of deliveries of EAG, with Adak (which is west of 174° W longitude) only receiving deliveries of EAG in the 2019/20 season. Additionally, as described in Section 3.4, the plant in Adak has not been operational since 2020; therefore, it is unlikely that the current facility use cap has benefited processors west of 174° W long as intended. There are factors beyond the crab use cap that have prevented the processor from competing for crab deliveries.

In recent years, the primary effect of the facility use cap has likely been in influencing the relative amounts of EAG IPQ that are being used in the active EAG processing facilities, and not the number of facilities that are active. Under the regulatory status quo, consolidation of processing can take place (and recently has for EAG, see Table 3-12), so long as two facilities receive this species and no single facility processes more than 60% of the EAG IPQ. The current regulations do not prevent consolidation up to this limit and they do not prevent all the IPQ from being used in one south-region community. Therefore, it is not likely that the current facility use cap regulations are influencing which communities are receiving EAG deliveries. Under the status quo regulations, it is expected that these IPQ would continue to be consolidated at the current level unless external future factors motivate expanded operations. It is not expected that this facility use cap would alone motivate additional processing expansion.

Under the status quo regulations, some unaffiliated EAG IPQ holders (and by extension the harvesters that have share-matched A class IFQ) have been constrained in their options for partnering with a facility for EAG custom processing. As described in the public comment letters, the UniSea processing facility in Dutch Harbor has approached the EAG facility use cap in many years and cannot accept additional EAG IPQ for custom processing. This is likely in part due to the PQS holdings of Royal Aleutian Seafoods Inc., a subsidiary of UniSea and the RCR company described in the proposals (see footnote 7). 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%; see Table A2-1). If the Royal Aleutian Seafoods IPQ resulting from this PQS is processed at the UniSea facility, this would allow only an additional 14.6%

(60% - 45.4%) of the PQS pool be custom processed at this facility in that year. Based on 2023/24 holdings 24% of the IPQ is held by unaffiliated EAG IPQ holders (see Table A2-1).

As described in the public comment letters, Royal Aleutian Seafoods has been developing a live EAG crab market opportunity which may offer a premium price for harvesters and IPQ holders, as well as potentially benefitting communities through tax revenue. Current facility use cap regulations have recently constrained access to this market for some EAG IPQ holders. When a facility is constrained by the facility use cap, these IPQ must be processed elsewhere.

As the WAI fishery has been closed since the 2004/2005 season, this cap has not constrained processing opportunity. However, should the fishery open with a small TAC in the near future, at least two processing facilities would need to participate under status quo regulations. All WAI A class IFQ would be issued as south-region shares, therefore these IPQ could be used in any south-region community.

PQS/ IPQ Use Cap

The PQS/ IPQ use caps were instituted to prevent excessive consolidation of PQS and the resulting annual IPQ. The CR Program EIS (NMFS/ NPFMC 2004) noted that excessive consolidation could have adverse effects on 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. To address these concerns, 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.

However, as demonstrated in the WBT and EBT fisheries in 2015, while use caps can guarantee market space, they do not guarantee that processing facilities will be available. The rising costs of labor and materials and the 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 BSS and BRR fisheries, it is unlikely that maintaining the PQS/ IPQ use caps as they are would alone motivate the continuation or the development of an additional processing facility able to receive south designated BSS, BBR, and WAG IPQ processed east of 174° W longitude IPQ. Facilities that have recently received these crab species are diversified with other crab and/ or groundfish species.

As described in Section 3.2.4, the current regulatory framework for PQS/ IPQ use caps in the CR Program fisheries creates a patchwork of exemptions which instruct how to account for how much IPQ is “used” (i.e., essentially whether customized processed IPQ counts towards the calculation of ‘use’ by an individual or a facility; see Appendix 1). These exemptions began with U.S. Congressional action through 2006 reauthorization of the Magnuson-Stevens Act which included a provision to exempt custom processing in the north-region of the BSS fishery from processing use caps and continued through the implementation of number of regulatory amendments (i.e., Amendment 27, 47, 41).

Current regulations still count custom processed south-region BSS IPQ, BBR IPQ, and WAG IPQ processed east of 174° W longitude towards the facility owner’s PQS/ IPQ use caps, unless it fits under a ROFR exemption. In 2008, the rationale in Amendment 27 identified the reason for leaving these fisheries out of the exemption, as described in Section 3.2.4. The BBR and BSS fisheries had historically relatively high TAC and therefore 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. However, recent years have seen a large declines in both stocks. The BBR fishery was closed for the 2021/22 and 2022/23 seasons and the BSS fishery was closed for the 2022/23 season.

The 2023/24 BBR fishery opened in October 2023 with a TAC of 2.15 Mlb, while the BSS fishery remained closed in this year. Both harvesting and processing representatives emphasized the challenging circumstances of this year for prosecuting the small BBR TAC. There were concerns about whether there would be enough unaffiliated processing facilities operating to prosecute the full BBR TAC, without the PQS/ IPQ use caps ‘stranding’ crab. It appears participants were largely able work through these

challenges, with 96% of the TAC harvested by 11/13/23. However, participants indicated the caps created a regulatory barrier for processing the fishery in the most efficient and cost-effective manner. Some harvesters and processors noted they may have made different operational decisions had the caps not been in place.

In the fortunate event that BBR and BSS stocks and TACs rebound in future years, a decline in active crab processor facilities with ownership independent of each other could still lead to stranded IPQ, as occurred for the WBT and EBT fisheries. This could even be the case for the WAG fishery which has had a steadier TAC in recent years. It is difficult to predict the full effect of the current PQS/ IPQ use cap given the current degree of uncertainty in the future for the BBR and BSS fisheries, as well as other external factors that could influence processor availability.

3.5.2 Effects of Alternative 2, Removing Facility Use Cap for EAG and WAI (Preferred Alternative)

Under Alternative 2, there would be no cap on the amount of EAG or WAI IPQ that may be processed at a single facility. A 30% cap on the amount of PQS an individual or CDQ group could directly or indirectly hold would remain in place (with exceptions for PQS holders that were grandfathered into the program above these caps). This section considers effects on EAG and WAI crab processors, harvesters, and processing communities.

Processors

If the EAG and WAI facility use caps were removed, as proposed in Alternative 2, there would be no regulations that prevent all EAG IPQ or, if open to directed fishing, WAI IPQ, from being processed in one facility. Based on current holdings of EAG IPQ and the expectation that IPQ holders that are affiliated with a processing facility would prefer to process their own IPQ to minimize costs, it is not expected that all IPQ will consolidate into one facility under current PQS holdings. As shown in Table A2-1 in Appendix 2, this has recently been Unisea and Westward, with Trident and Alyeska holding a small amount of IPQ. As described under Section 3.5.1, the expected effect of Alternative 2 would be a redistribution of the relative amounts of unaffiliated EAG IPQ that are being used in the active EAG processing facilities.

If the WAI fishery remains closed, the proposed action would have no effect on this fishery. If the fishery opens with a small catch limit, this action could allow for efficient processing of the TAC in one or more facilities. Processor shares are currently held by several processors, with most shares held by processors with Dutch Harbor/ Unalaska plants. Due to the long-time closure, no current processing facility or community has been dependent on the revenue from processing this species. Therefore, the distribution of processing this species would not represent a shift compared to recent processing participation or local tax revenue.

Increased competition within the processing sector due to more opportunity to custom process EAG could have distributional impacts for owners of processing facilities. It is expected that the primary result of the action would be a shift of some EAG IPQ from one processor that is currently active to a second processor that is currently active but cannot currently accept more IPQ. In this case, the processor able to exceed the 60% facility use cap would be advantaged by this opportunity but that benefit will be at the cost of the processing facility that lost this EAG IPQ. However, both processors are considerably diversified in other crab and groundfish species.

Unaffiliated PQS and IPQ holders could benefit from the proposed action if it provides them with more markets for custom processing. 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. The proposed action would remove the current regulations constraining this market access for EAG.

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.

Harvesters

Under Alternative 2, removing the 60% facility use cap on EAG and WAI crab would provide operational flexibility to harvesters on what facilities they deliver their crab to and which processing options are available, so long as at least two facilities continue to process EAG. Depending on the markets available (e.g., live crab markets), it may also translate into higher ex vessel prices. 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 this way removing the facility use cap may benefit EAG harvesters that are required to share-match. If processing of EAG IPQ consolidates down to one facility, this action could lead to less market opportunities for custom processing IPQ EAG, and possible decreased facility competition. However, there may still be multiple buyers at that facility which could provide multiple market opportunities and potentially different pricing structures.

Communities

The effects of Alternative 2 on communities and community stability are expected to be relatively small. Historically EAG has primarily been delivered to Dutch Harbor/ Unalaska and Akutan, with some deliveries to Adak and deliveries to Anchorage dating back in 2014 and earlier. While Alternative 2 would not prevent all the EAG from being delivered to one facility, if that occurred, based on recent deliveries, it is likely that that facility would be in Dutch Harbor/ Unalaska. In 2022/23, all EAG was delivered to two processing facilities in Dutch Harbor/ Unalaska. While there has been some recent redistribution away from Akutan, this is not due to the proposed action; this redistribution occurred under the status quo regulations. External factors could shift the overall processing distribution in the BS communities (e.g., stock status of other BSAI crab and salmon fisheries, Trident's decisions with regards to its Akutan plant, other climatic changes, etc.); however, it is expected that EAG processing will continue to be centralized in Dutch Harbor/ Unalaska. This means the expected economic activity, income generated, and tax revenue for associated processing communities are not expected to be substantially impacted by the proposed action. 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.

3.5.3 Effects of Alternative 3, Exempting All Custom Processed IPQ Crab from the PQS/ IPQ Use Caps (Preferred Alternative)

Under Alternative 3, custom processing arrangements for south-designated BSS IFQ, BBR IPQ and WAG IPQ processed east of 174° W longitude would no longer count against the PQS/ IPQ use cap if IPQ is processed at a shoreside processor or floating processor within community boundaries.¹⁷ This action would align the application of PQS/ IPQ use caps across all CR Program fisheries, effectively disregarding the ownership of the physical processor when applying the PQS/ IPQ caps. Under this approach, only a person's share holdings (direct and indirect) would be considered when applying the PQS/ IPQ caps. This section considers effects on BSS, BBR, and WAG crab processors, harvesters, and processing communities.

¹⁷ For all species, if the IPQ is custom processed on a floating processor that is not located within the bounds of a community, the custom processed IPQ would not be exempt from the PQS/ IPQ limits under Alternative 3. This is part of current regulations at §680.42(b)(7)(ii)(B) for other species and is not proposed to be changed under Alternative 3 for BBR, south-designated BSS and WAG processed east of 174° W longitude. There are no current floating processors that fall into this category, thus this situation is not further discussed in the analysis.

Processors

Alternative 3 is expected to benefit owners of crab processing facilities that *would* custom process additional BBR IPQ, south-designated BSS IPQ, or WAG IPQ at their facility, *but are otherwise constrained* by the 30% PQS/ IPQ use cap. There are several types of scenarios where this may be the case.

First, as occurred in 2015/16 for the EBT and WBT fisheries, it may be that there are not enough processing facilities available with independent ownership to remain under the 30% cap and process the full TAC. In the case of the EBT and WBT fisheries, the exit of one processor left three unaffiliated companies available for deliveries in the BSAI region, and the possibility of 10% of the WBT and EBT IPQ stranded. Unless enough IPQ is exempted through the ROFR exemption at §680.42(b)(7)(ii)(C), the BBR and BSS fisheries need at least four unaffiliated processing facilities available to process all of the IPQ.

Secondly, this alternative may be beneficial to the owners of crab processing facilities if crab TACs are low and/ or other external factors necessitate reduced operations or operational flexibility. Generally, it is expected that processing facility owners that also hold PQS would prefer to process their own IPQ. This allows the PQS holder to avoid custom processing fees, maximize the throughput of crab in their plant and maintain the economic viability of their processing operations. If multiple crab fisheries are open and/ or there is sufficient TAC available, processors are more likely to remain engaged. Under Alternative 3, given the current or recent IPQ holdings (see Table A2-1 in Appendix 2), processing for these species still may not consolidate the number of active plant unless external factors dictate this change. In this case Alternative 3 provides crab processing facility owners the flexibility to have their IPQ custom processed if needed or custom process others' IPQ over the 30% use caps as needed. It is particularly challenging to predict the likelihood of processing facility owners using this flexibility to reduce the number of active plants, given the current degree of uncertainty in the future for the BBR and BSS fisheries, as well as other possible changes in the processing sector.

For this reason, the effects of Alternative 3 on IPQ holders that are not affiliated with a processing facility are uncertain. This action allows for the possibility of additional crab processing consolidation to a smaller number of processing companies and facilities, which may limit the market opportunities for unaffiliated IPQ holders. However, it also allows for the possibility of existing crab processors to process greater than 30% of the IPQ. If the same number (or more) of processing facilities were in operation, but they had additional flexibility to do business with IPQ holders that are not affiliated with a processing facility (and therefore must custom process), this could increase market opportunities for IPQ holders.

With the north/ south regional delivery requirements still in place for BSS, it would still not be possible for all of the BSS IPQ to be processed in one facility under the proposed action (i.e., there would need to be at least one facility in each region to process BSS IPQ). However, if an exemption is permitted in the framework agreement as defined by designated parties (i.e., holders of A class IFQ, holders of IPQ, and representatives of the affected community) this could lead to additional consolidation.

Crab PQS is niche market that includes a small number of potential sellers and buyers. Sales occur infrequently and have often been to the entity that is the ROFR holder for those PQS. The current stock status and market conditions for BSAI crab has likely affected the resale value for PQS of most crab species. It is expected that increased flexibility for use and custom processing of IPQ, as proposed under Alternative 3 would increase the value associated with BBR, south-designated BSS, or WAG.

Harvesters

Similar to the impacts on unaffiliated IPQ holders, the impact of Alternative 3 on harvesters is uncertain. If the same number (or more) of processing facilities were in operation, but they had additional flexibility to do business with unaffiliated IPQ holders, this could increase market opportunities for harvesters. The flexibility could also make scheduling deliveries more efficient. When current use caps constrain

harvesters, they do not affect harvesters equally throughout the fishery. Those harvesters that wish to but cannot share-match with a processor that is at the cap, may be negatively impacted. Therefore, certain harvesters may be more impacted by the flexibility in the proposed action. In addition, consolidation may occur in the processing sector even without Alternative 3. If there are not enough unaffiliated processing facilities available to process all the IPQ, this could result in stranded IFQ if flexibilities are not available.

If the proposed action results in the consolidation of the number of facilities available for BRR, south-designated BSS and WAG deliveries, this may constrain competition and market opportunities for harvesters.

Communities

Alternative 3 is expected to have a limited effect on communities. Here it is again important to distinguish effects arising out of the action – the exemption of custom processing from the processing share cap – from effects that would arise independent of the action. Under the current caps, in which custom processing counts against the cap of the processing plant owner, custom processing arrangements have facilitated the movement of shares among plants. As described under Alternative 2, external factors can greatly affect the overall processing capacity in the BSAI communities and processing decisions in ways that the existing caps do not prevent. The proposed action is not relevant if the processor would not be at or over the cap and a redistribution of IPQ occurs. Therefore, the effect of this action on communities will be determined by the extent to which the exemption would facilitate the movement of shares to, away from, or among communities. In recent years, this means Dutch Harbor/ Unalaska, King Cove, St Paul, Akutan, and Kodiak.

Alternatively, if an exemption of custom processed IPQ allows existing processing facilities the ability to process the full TAC, which may otherwise be constrained with reduced processing availability under status quo regulations, this could benefit associated communities. Similar to circumstances that occurred for the EBT and WBT fisheries in 2016, if enough independently owned processing facilities are not available crab could be ‘stranded’ which may result in forgone tax revenue for communities.

3.5.4 Management and Enforcement Considerations

NOAA Office of Law Enforcement (OLE) has consistently identified challenges with the monitoring and enforcement of PQS/ IPQ use caps. Correctly applying limits on PQS and IPQ ownership and use requires full knowledge of all associated holdings of those shares. Ownership of interests in the crab fisheries is often indirect, with many persons holding overlapping interests in a variety of different fisheries. These overlapping indirect interests create a complex web that must be fully assessed to ensure compliance with limits on shareholdings. Exempting custom processing from IPQ use caps requires tracking production at the facility level, and knowledge of indirect ownership of both shares and plants. These interests in shareholdings, use (which include ownership of processed products), and processing plants require a multifaceted approach to monitoring the processing sector. To monitor the caps, NMFS Restricted Access Management (RAM) receives annual PQS affiliation information as required under §680.42(b)(3).

To enforce the caps, OLE in collaboration with RAM, will first deduct any IPQ that would be considered exempt (e.g., custom processed IPQ from one of the exempt fisheries). For the remaining PQS/ IPQ OLE 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 that is not exempt. Given the complex affiliation structure for some entities and the patchwork of regulatory exemptions, monitoring and enforcement for these caps is done manually and can be particularly labor-intensive. Compliance with the PQS/ IPQ use caps and facility use caps is identified after processing has occurred and generally on an ad hoc basis.

Alternative 2 and Alternative 3 would reduce the monitoring and enforcement burden related to these caps. In particular, if these alternatives were adopted together, processing use caps regulations would be applied consistently across crab fisheries. Adopting both alternatives would limit monitoring and enforcement to PQS/ IPQ holdings, which could be evaluated at the time of transfer.¹⁸ These transfers require PQS or IPQ transfer applications be completed and submitted to NMFS RAM.

3.5.5 Description of Small Entities for Regulatory Flexibility Analysis

Section 603 of the Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis (IRFA) be prepared to identify whether a proposed action will result in a disproportionate and/or significant adverse economic impact on the directly regulated small entities, and to consider any alternatives that would lessen this adverse economic impact to those small entities. NMFS prepares the IRFA in the classification section of the proposed rule for an action. Therefore, the preparation of a separate IRFA is not necessary for the Council to recommend a preferred alternative. This section provides information about the directly regulated small entities that NMFS will use to prepare the IRFA for this action if the Council recommends regulatory amendments.

This section also identifies the general nature of the potential economic impacts on directly regulated small entities, specifically addressing whether the impacts may be adverse or beneficial. The exact nature of the costs and benefits of each alternative is addressed in the impact analysis sections of the RIR and is not repeated in this section, unless the costs and benefits described elsewhere in the RIR differs between small and large entities.

Identification of Directly Regulated Entities

The entities directly regulated by this action are those entities that process EAG, WAI, BBR, BSS, and WAG crab. This action would also directly regulate IPQ holders and crab processing companies that use the IPQ. Some IPQ holders are the same entities that own the processing facility, and others are those that have their crab custom processed. IPQ holders also include three CDQ groups and other ECCs. Table 3-29 provides estimated counts of these entities.

Table 3-29 Number of IPQ holders and facilities that processed for the affected crab fisheries

| Fishery | IPQ holders | Crab processing facilities (2020/21) |
|--------------|-------------|--------------------------------------|
| BBR | 8 (2023/24) | 6 |
| BSS | 9 (2021/22) | 5 |
| WAG | 6 (2023/24) | 4 |
| EAG | 8 (2023/24) | 4 |
| WAI | 0 | 0 |
| Total unique | 13 | 6 |

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

Count of Small, Directly Regulated Entities

The Small Business Act (SBA) has established size criteria for all other major industry sectors in the United States, including fish processing businesses. On January 26, 2016, the SBA issued a final rule revising the small business size standards for several industries, effective February 26, 2016 (81 FR 4469). The final rule modified the size standard for “seafood product preparation and packaging”

¹⁸ The exception to this is regulations at §680.42(b)(7)(ii)(B) which is not proposed to be changed under Alternative 2 or 3. This regulation does not provide an exemption for custom processed IPQ processed on a floating processor that is not located within the bounds of a community for any CR Program crab species.

(NAICS code 311710) that applies to seafood processors. The final rule also modified the definition of a small entity operating as a seafood processor to include all entities that are independently owned and operated, not dominant in their field of operation, and have a combined annual employment of fewer than 750 or fewer persons on a full-time, parttime, temporary, or other basis, at all their affiliated operations worldwide.

As stated in the analysis, affiliation information was not available for this analysis; however, Appendix 2 provides the analysts' best knowledge of IPQ holder affiliations.

IPQ holders: employee information for unaffiliated IPQ holders is unknown therefore these entities are considered "small" for purposes of the RFA. These unaffiliated IPQ holders have also included CDQ groups and their subsidiaries as well as other ECCs (i.e., Kodiak Fisheries Development Association). These entities are also considered small for purposes of the RFA. Those IPQ holder entities affiliated with a processing facility (as identified in Table A2-1 for the most recent years available) are considered "large" for purposes of the RFA. Therefore, the analysis estimates six small entities and seven large entities who held IPQ for EAG, WAG, BSS, and BBR for the most recent years available.

Crab Processing Facilities: all six crab processing facilities that received deliveries of these species in 2020/21 are considered large entities.

Impacts to Small, Directly Regulated Entities

RFA is interested in new regulations that would create a disproportionate adverse impact on small entities. In the proposed action, six IPQ holders may be considered small entities. However, the proposed regulatory changes are all intended to increase operational efficiency for these entities by removing the facility use cap for EAG and WAI IPQ and/ or removing custom processing IPQ from the accounting of PQS caps for BBR, south-designated BSS and WAG when processed east of 174° W longitude. Therefore, it is expected that the proposed action would have a beneficial on small entities.

3.5.6 Net Benefits to the Nation

A minor overall net benefit to the Nation is likely to arise from this action. The action is likely to increase production efficiency for some processors, reducing efficiency losses that arise from limits on consolidation of processing activity under the rationalization program.

4 Magnuson-Stevens Act and FMP Considerations

4.1 Magnuson-Stevens Act National Standards

Below are the 10 National Standards as contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In recommending a preferred alternative at final action, the Council must consider how to balance the national standards.

National Standard 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.

Neither of the action alternatives would undermine the current management system that prevents overfishing. Alternative 3 would provide an exemption to a regulatory constraint and aid participants in the BBR, BSS, and the WAG fisheries in achieving optimum yield from these fisheries by facilitating the harvesting and processing of the entire TACs.

National Standard 2 — Conservation and management measures shall be based upon the best scientific information available.

This analysis draws on the best scientific information that is available concerning the affected BSAI crab fisheries from the 2023 stock assessments which includes stock health status, fishery dependent data trends, and research informing life history parameters that inform stock abundance models. The most up-to-date information that is available has been provided by the managers of these fisheries and by members of the fishing industry.

National Standard 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.

Both alternatives continue the management of individual crab stocks as a unit or interrelated stocks as a unit or in close coordination and are consistent with National Standard 3.

National Standard 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.

The alternatives would treat all participants the same, regardless of their residence. The proposed actions would not allocate a resource, these actions would apply to the current harvesting and processing allocations under the CR Program. Under both alternatives, the 30% use caps on the holdings of PQS and IPQ would continue to apply, except for PQS holders that were initial issued PQS above this amount. Consolidation of physical processing plants may occur under the proposed actions; however, use cap regulations would still require at least four IPQ holders to match with IFQ holders.

National Standard 5 — Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

Both action alternatives are expected to improve the efficiency of the affected crab fisheries as compared to Alternative 1. Alternative 2 would allow for available processing facilities to have increased opportunity to custom process greater than 60% of the EAG or WAI IFQ and more flexibility with their own IPQ. Alternative 3 would also allow available processing facilities to have increased opportunity to custom process south-designated BSS, BRR, and WAG that is processed east of 174° W longitude without exceeding the use caps. The primary purpose of this action is to ensure that existing allocations are able

to be fully utilized. PQS and QS were allocated under the CR Program for a number of reasons including resource conservation and socioeconomic benefits to the harvesters, processors, and communities involved in the BSAI crab fisheries.

National Standard 6 — Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The proposed actions increases processor flexibility and efficiency for PQS/IPQ use caps by taking into account variations of stock abundances and fisheries harvest. None of the alternatives would be expected to affect changes in the availability of Bering Sea and Aleutian Island crab resources each year. Any such changes would be addressed through the stock assessments and annual specifications process, which is not affected by the alternatives.

National Standard 7 — Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

As described in Section 3.5.4, the current PQS/ IPQ use caps create a complex web of affiliations to consider relative to complex use cap regulations. The two action alternatives are expected to reduce the monitoring and enforcement of these regulations. If these alternatives were adopted together, processing use caps regulations would be applied consistently across crab fisheries. Adopting both alternatives would limit monitoring and enforcement to PQS/ IPQ holdings, which could be evaluated at the time of transfer.

These proposed actions do not duplicate other actions but expand on previous exemptions so that regulations are applied consistently across fisheries.

Moreover, these actions are expected to decrease processing costs for IPQ holders as they have more flexibility to identify custom processing markets with any available processing facility. It allows IPQ holders and associated IFQ holders the opportunity to process the full fishery TAC, regardless of the number of available unaffiliated processing facilities.

National Standard 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 by utilizing economic and social data that meet the requirements of National Standard 2, 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.

Section 3.3 and 3.4 provides information on the communities that have recently relied on crab processing, to the extent confidentiality limits allow. This includes listing the communities where WAG, EAG, BSS, and BBR crab processing has taken place between 2012/13 – 2022/23 in Section 3.3 and detailing a short history, background, and demographic profile of each of those communities in Section 3.4.

Under both Alternative 2 and 3, for purposes of this analysis it is important to separate the possible consolidation that could occur under the status quo from the consolidation that may occur under the proposed action. Considering the potential for consolidation that could happen under status quo, which could impact processing communities, minimal impacts are expected for processing communities from either proposed action alternative. Additionally, both alternatives allow IPQ holders and associated IFQ holders the opportunity to process the full fishery TAC, regardless of the number of available unaffiliated processing facilities. This could also benefit processing communities.

National Standard 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.

The proposed actions increases processor flexibility with regards to facility use and custom processing caps to account for variability in stock abundance and fisheries harvest, therefore will have no effect on bycatch measures currently in place.

National Standard 10 — Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

Alternative 2 and 3 are expected to have minimal effects on safety of participants in the fishery. Exempting custom processed IPQ could allow more flexibility in where IFQ is delivered. Therefore, the Alternative 3 in particular, may improve the opportunity for fishing and delivery crab in safer ocean and weather in some situations, relative to no action.

4.2 Section 303(a)(9) Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that a fishery impact statement be prepared for each FMP or FMP amendment. A fishery impact statement is required to assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for (a) participants in the fisheries and fishing communities affected by the plan amendment; (b) participants in the fisheries conducted in adjacent areas under the authority of another Council; and (c) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery.

The RIR prepared for this potential plan amendment constitutes the fishery impact statement. The likely effects of the proposed action are analyzed and described throughout the RIR. The effects on participants in the fisheries and fishing communities are analyzed in Section 3.5.2 and Section 3.5.3. The effects of the proposed action on safety of human life at sea is evaluated under National Standard 10, in Section 4.1.

The proposed action affects the crab fisheries in the EEZ off Alaska, which are under the jurisdiction of the North Pacific Fishery Management Council. Impacts on participants in fisheries conducted in adjacent areas under the jurisdiction of other regional fishery management councils are not anticipated as a result of this action.

4.3 Council’s Ecosystem Vision Statement

In February 2014, the Council adopted, as Council policy, the following:

Ecosystem Approach for the North Pacific Fishery Management Council

Value Statement

The Gulf of Alaska, Bering Sea, and Aleutian Islands are some of the most biologically productive and unique marine ecosystems in the world, supporting globally significant populations of marine mammals, seabirds, fish, and shellfish. This region produces over half the nation’s seafood and supports robust fishing communities, recreational fisheries, and a subsistence way of life. The Arctic ecosystem is a dynamic environment that is experiencing an unprecedented rate of loss of sea ice and other effects of climate change, resulting in elevated levels of risk and uncertainty. The North Pacific Fishery Management Council has an important stewardship responsibility for these resources, their productivity, and their sustainability for future generations.

Vision Statement

The Council envisions sustainable fisheries that provide benefits for harvesters, processors, recreational and subsistence users, and fishing communities, which (1) are maintained by healthy, productive, biodiverse, resilient marine ecosystems that support a range of services; (2) support

robust populations of marine species at all trophic levels, including marine mammals and seabirds; and (3) are managed using a precautionary, transparent, and inclusive process that allows for analyses of tradeoffs, accounts for changing conditions, and mitigates threats.

Implementation Strategy

The Council intends that fishery management explicitly take into account environmental variability and uncertainty, changes and trends in climate and oceanographic conditions, fluctuations in productivity for managed species and associated ecosystem components, such as habitats and non-managed species, and relationships between marine species. Implementation will be responsive to changes in the ecosystem and our understanding of those dynamics, incorporate the best available science (including local and traditional knowledge), and engage scientists, managers, and the public.

The vision statement shall be given effect through all of the Council's work, including long-term planning initiatives, fishery management actions, and science planning to support ecosystem-based fishery management.

In considering this action, the Council is being consistent with its ecosystem approach policy. The proposed action will not change the assessment or management process for BSAI crab and it will not affect how CR Program crab is harvested. This action is focuses on the processing efficiency of CR Program crab given uncertainties around future processing capacity. The actions in the Council's PA seek to ensure regulations do not limit processing market opportunity or restricted the custom processing of crab due to a facility being at their use cap.

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Appendix 1 Federal Regulations

Below are relevant Federal Regulations from 50 Code of Federal Regulations (CFR) cited throughout the document.

...

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:

.....

- (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\(b\)\(8\)](#).

.....

§ 680.42(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\(p\)](#).
- (2) A person may not use more than 60 percent of the IPQ issued in the BSS crab QS fishery with a North region designation during a crab fishing year except that a person who:
 - (i) Holds IPQ; and
 - (ii) 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 will not be considered to use any IPQ in the BSS crab QS fishery with a North region designation if that IPQ meets the requirements described in [paragraph \(b\)\(7\)](#) of this section.

.....

- (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\(p\)](#).

Appendix 2 IPQ holder information

Table A2-1 IPQ information for the most recent years available EAG (2023/24), WAG (2023/24), BSS (2021/22), and BBR (2023/24)

| EAG - 2023/24 | | IPQ lbs | % of total | % of total |
|----------------------|------------------------------|------------------|-------------|-------------|
| Processor-affiliated | ALYESKA SEAFOODS INC. | 1 | 0% | 76% |
| | ROYAL ALEUTIAN SEAFOODS INC. | 1,261,569 | 45% | |
| | TRIDENT SEAFOODS CORPORATION | 28,342 | 1% | |
| | WESTWARD SEAFOODS INC. | 824,297 | 30% | |
| Unaffiliated* | 57 DEGREES NORTH LLC | 133,253 | 5% | 24% |
| | GKC HOLDINGS LLC | 183,390 | 7% | |
| | KEYPORT LLC | 192,679 | 7% | |
| | OCEAN2TABLE ALASKA LLC | 157,919 | 6% | |
| Total | | 2,781,450 | 100% | 100% |

| WAG - 2023/24 | | IPQ lbs | % of total | % of total |
|----------------------|------------------------------|----------------|-------------|-------------|
| Processor-affiliated | ROYAL ALEUTIAN SEAFOODS INC. | 121,371 | 16% | 47% |
| | TRIDENT SEAFOODS CORPORATION | 7,883 | 1% | |
| | WESTWARD SEAFOODS INC. | 229,083 | 30% | |
| Unaffiliated* | APICDA JOINT VENTURES INC. | 229,470 | 30% | 53% |
| | KEYPORT LLC | 131,416 | 17% | |
| | OCEAN2TABLE ALASKA LLC | 45,522 | 6% | |
| Total | | 764,745 | 100% | 100% |

| BSS - 2021/22 | | IPQ lbs | % of total | % of total |
|----------------------|-------------------------------|------------------|-------------|-------------|
| Processor-affiliated | NORTH PACIFIC SEAFOODS INC | 443 | 0% | 69% |
| | PETER PAN SEAFOOD COMPANY LLC | 629,711 | 16% | |
| | ROYAL ALEUTIAN SEAFOODS INC. | 605,236 | 15% | |
| | TRIDENT SEAFOODS CORPORATION | 1,013,337 | 25% | |
| | WESTWARD SEAFOODS INC. | 522,437 | 13% | |
| | NORQUEST SEAFOODS INC. | 137,064 | 3% | |
| Unaffiliated* | 57 DEGREES NORTH LLC | 691,568 | 17% | 27% |
| | COASTAL VILLAGES CRAB LLC | 169,282 | 4% | |
| | KEYPORT LLC | 228,121 | 6% | |
| Total | | 3,997,199 | 100% | 100% |

| BBR - 2023/24 | | IPQ lbs | % of total | % of total |
|----------------------|-------------------------------|------------------|-------------|-------------|
| Processor-affiliated | PETER PAN SEAFOOD COMPANY LLC | 198,524 | 12% | 76% |
| | ROYAL ALEUTIAN SEAFOODS INC. | 363,901 | 23% | |
| | TRIDENT SEAFOODS CORPORATION | 376,941 | 23% | |
| | WESTWARD SEAFOODS INC. | 282,565 | 18% | |
| Unaffiliated* | 57 DEGREES NORTH LLC | 199,185 | 12% | 24% |
| | APICDA JOINT VENTURES INC. | 8,685 | 1% | |
| | COASTAL VILLAGES CRAB LLC | 75,935 | 5% | |
| | KEYPORT LLC | 107,415 | 7% | |
| Total | | 1,613,151 | 100% | 100% |

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

Notes: * affiliation data was not available to the analyst at this time. Affiliation determinations were made based on the analyst's best understanding and could contain errors. No WAI IPQ has been issued due to commercial closures since the 2004/05 season. Unaffiliated IPQ must be customed processed with an entity that owns a processing facility.