

May 27, 2020

Mr. Simon Kinneen, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue
Anchorage, AK 99501-2252

Dear Chairman Kinneen:

The following report is submitted by Inter-Cooperative Exchange (“ICE”), a crab harvesting cooperative formed pursuant to 50 C.F.R. § 680.21. ICE is an Alaska cooperative corporation organized and operated to qualify as a fishermen’s association under the Fishermen’s Collective Marketing Act of 1934, 15 U.S.C. § 521 et seq. (the “FCMA”).

ICE has 225 members that hold quota shares (“QS”) issued under the Bering Sea and Aleutian Islands (“BSAI”) crab rationalization program (the “Program”). ICE vessels harvest approximately 70% of the crab available under Program individual fishing quota (“IFQ”).

The following report is submitted in response to the Council’s February 2013 motion requesting that crab cooperatives voluntarily provide annual reports detailing measures they have taken to facilitate the transfer of QS to active participants, including crew members and vessel owners, and any available measures taken by each cooperative to address concerns expressed by the Council about high lease rates and crew compensation.

ICE has determined that promoting the transfer of Program QS to “active participants” through a right of first offer (“ROFO”) requirement is an “available measure”. The ICE ROFO is described in Section 1, below.

ICE has determined that it can collect and report data concerning the lease rates paid by its members’ vessels, but only under the explicit understanding that its collection and reporting of that data is not expected or intended to restrain competition in the lease rate market.

Given the complexity and sensitivity of crew compensation arrangements, ICE has decided that it is not appropriate to collect or report that data. ICE believes that Council concerns regarding crab fishery crewmember compensation should be evaluated in light of crewmember “daily rate of pay” information that is collected from vessel owners through the Economic Data Reports (EDRs).

Report

1. What measures is the cooperative taking to facilitate the transfer of QS to active participants, including crew members and vessel owners?

ICE has implemented a ROFO in favor of crew members, giving them an opportunity to purchase QS in connection with each QS sale made by an ICE member that does not fall within a specific ROFO exemption.

For purposes of the ICE ROFO, a crew member is an individual who meets the Council's catcher vessel crew ("CVC") QS eligibility requirements, and who did not receive catcher vessel owner ("CVO") QS at initial allocation. Crew members receive a first priority right to be offered 10% of QS being sold. Through a website (www.crabqs.com), qualified crew members can register to receive notification of sales offerings, and brokers are able to easily distribute offerings to the qualified crew.

Direct sales to crew members are not subject to the ROFO. There is no minimum amount of QS a crew member must purchase to exercise the ROFO. If crew member offers to purchase exceed the amount of QS offered to them, the QS is allocated among them on a pro rata basis.

2. What is the level of participation from cooperative members regarding these measures?

The ICE ROFO is incorporated into the ICE Membership Agreement, which each member is required to execute. Transfers are tracked to monitor compliance. To the best of ICE management's knowledge, no ICE members have transferred QS in breach of their ROFO obligations under the ICE Membership Agreement.

3. How effective have these measures been?

During the period February 1, 2019 through January 31, 2020, crab QS units that generated 1,988,312 pounds of catcher vessel owner ("CVO") or catcher processor owner ("CPO") IFQ were transferred. Of that amount, QS units generating 529,669 IFQ pounds (i.e., about 27% of the amount transferred) were subject to the ROFO. All QS unit transfers subject to the ROFO were completed in compliance with its requirements. Of the total amount transferred, QS units generating 40,372 IFQ pounds (or approximately 2%) were transferred to qualified crewmembers.

An addendum to this report ([Attachment A](#)) classifies QS transfers by transferee type, and the transferee types are defined with reference to terms that the Council and NMFS have used in Program analyses and regulations. Please note that some transferee classifications are based on information that is not a matter of public record. Transfers were assigned to those classifications based in part on the personal knowledge of Mr. Jake Jacobsen, ICE's Executive Director.

4. What measures is the cooperative taking to address the issue of high lease rates?

ICE is taking two steps to address Council concerns regarding crab quota lease rates. First, ICE notifies its members that the Council is concerned about the potential impact of high lease rates on vessel operations, and asks its members to individually consider voluntarily capping their lease rate asks and offers at 65% of adjusted gross revenues for Bristol Bay red King crab ("BBRKC") and 50% of adjusted gross revenues for Bering Sea Snow crab ("BSS").

Second, to document its members' voluntary responses to the notice about the Council's concerns regarding lease rates, ICE requires its harvesting members to report the lease rates paid by every vessel that harvests crab under ICE IFQ. ICE uses that information to prepare its report to the Council.

ICE does not have a policy concerning lease rates and does not promote lease rate caps or limits of any sort. ICE's communication with its members regarding lease rates is limited to a discrete annual statement relaying the Council's concern and suggesting members consider

taking individual voluntary action in response.

ICE collects lease rate information on a basis that is intended to be consistent with the related queries under the Program’s EDR requirements. ICE completed its fifth lease rate survey during March of this year. The survey collected data from calendar year 2019, so it covers the 2018-2019 BSS season and the 2019-2020 BBRKC season.

ICE collects and compiles information from vessels for BBRKC and BSS crab delivered on ICE IFQ permits. The vessel manager or responsible ICE member was asked to provide calendar year 2019 financial information if the vessel made one or more deliveries of BBRKC or BSS crab harvested under leasing arrangements. If a vessel harvested crab under two or more different leasing arrangements, the reporting party was asked to provide separate information for each of them. If a vessel did not harvest crab under a lease, their information was not collected for this report.

For each fishery, reporting parties were asked to provide the following information:

- The total pounds harvested by the vessel, its gross sales revenues, the pounds harvested under lease and the sales revenues from leased crab.
- The type and amount of expenses deducted from leased crab sales revenues before applying their lease factor. Reported deductions included landing taxes, NMFS cost recovery fees, crab buy-back fees, cargo insurance, Bering Sea Fisheries Research Foundation assessments and others.
- The total amount paid to the lessor(s).

5. What is the level of participation from cooperative members regarding these measures?

Thirty-nine vessels made landings of leased crab on ICE IFQ permits during the 2018-2019 BSS fishery, and thirty-nine vessels made landings of leased crab on ICE IFQ permits during the 2019-2020 BBRKC season. The requested information was submitted for all vessels.

The reported lease rates are a percentage of “adjusted gross revenues” (i.e., gross sales revenues less certain expenses). The “adjusted gross revenues” lease rates do not account for the observed variation among vessels concerning the expenses that are deducted before lease rates are applied.

The average, weighted average and median lease rates for the Opilio (“BSS”) and Bristol Bay red King crab (“BBRKC”) fisheries are shown in the tables below.

BSS	% of Adjusted Gross
Average	53%
Weighted Average	51%
Median	50%

BBRKC	% of Adjusted Gross
Average	66%
Weighted Average	66%
Median	65%

Graphics showing the amount of pounds harvested under each lease rate are attached to this report as Attachment B.

6. How effective have these measures been?

ICE looks to the Council to inform it regarding the effectiveness of the measures it is taking to address Council concerns regarding lease rates.

7. What future measures does the cooperative plan to take to address the Council concerns over active participation and lease rates?

ICE plans to continue its ROFO program. ICE will continue to notify its members annually regarding the Council's sensitivity to high lease rates, will continue to request that members consider voluntarily restricting their lease rate asks and offers per paragraph 4, above, and will continue to conduct lease rate surveys and report the results to the Council.

Attachment A

ROFO Report – QS Transfer Data

This report is based on QS transfers for the period February 1, 2019 to January 31, 2020.

The QS amounts were converted to pounds using the ratio in the year the transfer occurred, or, if no total allowable catch (TAC) was issued in that year, the ratio in the latest year the fishery occurred. For seasons that have not been issued a TAC since the beginning of rationalization, the IFQ pounds resulting from QS sold is 0.

For purposes of this report, the following terms have the following meanings:

Active Participant – The QS transferee is either a “Crab Crewmember” or a “Direct Owner” (as defined below). A person may be both a “Crab Crewmember” and a “Direct Owner”.

Crab Crewmember – The QS transferee is currently qualified to hold CVC shares.

Vessel Owner – The QS transferee owns a direct or indirect interest in a vessel participating in one or more rationalized BSAI crab fisheries (a “Vessel”).

Direct Owner – The QS transferee owns a Coast Guard-documented interest in a Vessel.

Indirect Owner – The QS transferee owns an interest in an entity that owns a Coast Guard-documented interest in a Vessel.

Common Ownership – A person who holds a significant ownership interest in the QS transferee is also a Direct Owner or an Indirect Owner.

(Attachment A – Cont.)

QS Transfer Data - February 1, 2019 to January 31, 2020

(CVO only)

QS Units and IFQ Pounds Transferred:

Type	Number
Total QS units transferred	76,211,384
Total QS units in period	1,911,872,078
% QS units transferred	4%
IFQ pounds in period	39,272,219
Total IFQ pounds resulting from QS transferred	1,988,312
% IFQ pounds transferred	5 %

IFQ Pound Transfers by Transferee Class:

Entities receiving QS may belong to one or more of the classes listed. Persons receiving QS who are directly engaged in or have common ownership in entities directly engaged in the rationalized crab fisheries (i.e., Active Participants added to Common Ownership) composed 61% of the QS recipients. The remaining 39% appear to be related parties participating in restructuring transfers.

Type	Number	% Total
Transferred to an Active Participant	328,541	17%
Transferred to a Crab Crewmember	40,372	2%
Transferred to a Direct Owner	288,200	14%
Transferred to an Indirect Owner	240,955	12%
Transferred to Common Ownership	328,541	17%

ROFO Program

Type	Number	% Total
Pounds subject to ROFO	529,669	27%
Pounds exempt	1,458,643	73%
Unknown if subject to ROFO	0	0%

Attachment B

Amounts Harvested per Lease Rate



