

DRAFT

Western Aleutian Islands golden king crab fishery modifications North Pacific Fishery Management Council June 2009

In August of 2005, fishing in the Bering Sea and Aleutian Island crab fisheries began under a new share-based management program (the “rationalization program”). The program is unique in several ways, including the allocation of processing shares corresponding to a portion of the harvest share pool. These processor shares are allocated as long term shares, known as processor quota shares (PQS), which annually yield individual processing quota (IPQ) authorizing the holder to accept deliveries of the corresponding harvest shares. The portion of the harvest share pool that must be delivered to a processor holding unused IPQ is known as Class A individual fishing quota (Class A IFQ). In certain fisheries, these allocations of Class A IFQ and IPQ are required to be used in designated regions (i.e., the landing of crab and its processing must take place within the designated region).

The program governs fishing in several crab fisheries, including the Western Aleutian Islands golden king crab fishery. In the second year of the program, a noticeable portion of the quota in this fishery was left unharvested. Some harvesters in the fishery assert that compliance with certain aspects of the management program (including processor share and regional landing requirements) caused this failure to harvest the quota. They also assert that those program requirements have hampered their ability to achieve efficiency benefits intended by the program. In addition, representatives of Adak and the Adak-based shore plant have expressed frustration with the program’s processor and community protections. Their specific concern is that the program requires that 50 percent of the catcher vessel Class A IFQ (or approximately 24 percent of the non-CDQ TAC) be landed in the area west of 174° West longitude (the West region), an area that includes Adak. Yet, the qualifying years for the initial allocation of processor shares excludes years after 1999, when processing developed in Adak and the West region. Adak community and processor representatives have asserted that the mismatch of the regional landing requirement compared with the Adak processing activity and the qualifying years has prevented the program from achieving intended benefits to communities in the West region, particularly Adak. In effect, the holders of processor shares in the West region do not correspond with the active regional processing capacity in the West region of the fishery. So each year, these different interests have been required to negotiate agreements for the use of IPQ in the fishery.

Although some participants believe that the program structure has created problems in the fishery, others believe that few problems arose from the original program structure and any such problems have been addressed by amendments. Most importantly, a yet to be implemented amendment that exempts custom processing from use caps in the West region is argued to have addressed an impediment to using all West designated IPQ in a single facility in that region. In addition, some participants believe it is the reluctance of others in the fishery to use the systems created by the program (specifically the arbitration system) to resolve issues that have caused problems in the fishery.¹

Over time, stakeholders have suggested a variety of measures that could be used to address the perceived problems in the fishery. Use-it-or-lose-it requirements for PQS that would reallocate PQS that was not used in 3 of 5 years, reallocation of PQS and CP QS to address community issues, and reversion to a

¹ The Council has also requested an analysis of an amendment that would withhold IPQ, if a PQS holder fails to apply for the allocation. In one year in the Eastern Aleutian Islands golden king crab fishery, a PQS holder chose not to apply leading to substantial consolidation of IPQ holdings in that year. If IPQ are withheld when a PQS holder fails to apply for an allocation, QS holders will receive additional Class B IFQ (which are not subject to IPQ landing requirements).

DRAFT

limited access fishery have all be suggested as measures to address the fishery's problems. After input from its crab advisory committee, members of the public, and the Advisory Panel and deliberations over the course of several meetings, the Council has requested staff to examine the following two potential measures to address perceived problems in the fishery:

Emergency exemption from regionalization for Western Aleutian golden: A paper examining a mechanism to provide an emergency exemption from regional landing requirements in the Western Aleutian Island golden king crab fishery for lack of available processing capacity as defined by private contract between the holders of Class A IFQ and matched IPQ.

PQS removal for Western Aleutian golden (WAG): A paper examining a component to extinguish PQS in the Western Aleutian Islands golden king crab fishery (including options to extinguish west designated PQS only and to compensate PQS holders). The purpose of the proposed action is that additional flexibility under the program may be needed to address some inefficiencies created through the share matching system. For example, the program may need to be adjusted to avoid stranding resources when market conditions do not support PQS restrictions.

The paper begins with a background section that is intended to shed light on the perceived problems in the fishery. The paper then goes on to discuss the two proposed measures and their potential to address those problems and a brief assessment of potential issues that could arise under the measures.

Background

Prior to implementation of the rationalization program, the crab fisheries were managed under the License Limitation Program (LLP). Under that program, 28 licenses carried endorsements authorizing participation in the Aleutian Islands golden king crab fisheries (including the Western fishery). Despite a relatively constant TAC leading up to implementation of the rationalization program, the license limits were not constraining and the fishery did not attract the level of competition of other crab fisheries (see Table 1). The fishery's small TAC and distant and relatively limited grounds are believed to have been an effective deterrent to entry to those qualified under the LLP.

Table 1. TACs, catches, and participation by operation type in the Western Aleutian Islands golden king crab fishery (2000/1 through 2007/8 seasons).

wag

Season	TAC	Catch	Percent of TAC harvested	Number of vessels		
				catcher vessels	catcher processors	all unique vessels
2000 - 2001	2,700,000	2,902,518	107.5	11	1	12
2001 - 2002	2,700,000	2,693,221	99.7	8	1	9
2002 - 2003	2,700,000	2,605,237	96.5	5	1	6
2003 - 2004	2,700,000	2,637,161	97.7	5	1	6
2004 - 2005	2,700,000	2,639,862	97.8	5	1	6
2005 - 2006	2,400,000	2,382,468	99.3	2	1	3
2006 - 2007	2,400,000	2,002,186	83.4	2	1	3
2007 - 2008	2,400,000	2,246,040	93.6	2	1	3

Sources: ADFG fishtickets and NMFS RAM catch data (for 2005-2006, 2006-2007, and 2007-2008)

Despite relatively low participation levels in the years leading up to implementation of the rationalization program, the fishery did exhibit signs of increased effort. Seasons progressively shortened in the few years leading up to implementation of the program (see Table 2).

Table 2. Season opening and closings in the Western Aleutian Islands golden king crab fishery (2001/2 though 2004/5 seasons).

wag

Season	Season opening	Season closing
2001 - 2002	August 15	March 30
2002 - 2003		March 8
2003 - 2004		February 2
2004 - 2005		January 3

Sources: ADFG Annual Management Report.

Under the rationalization program, quota shares were allocated based on historic activity in the fishery. With few participants, initial allocations of QS were very concentrated. Very few QS transfers have been made since the implementation of the program, so QS holdings have remained very concentrated (see Table 3).

Table 3. Quota share holdings by share type, region, and operation type in the Western Aleutian Islands golden king crab fishery (2007-2008).

cvpo qs

Share type	Share holdings by region and operation type						Across regions and operation types			
	Region/Catcher processor	QS holders	Percent of pool	Mean holding	Median holding	Maximum holding	QS holders	Mean holding	Median holding	Maximum holding
Owner Quota Shares	Undesignated	13	26.9	2.1	1.0	11.0	16	6.25	1.74	45.73
	West	9	26.9	3.0	1.3	13.5				
	Catcher processor	3	46.2	15.4	0.5	45.7				
Crew Quota Shares	Catcher vessel	8	57.5	7.2	5.6	21.7	9	11.11	6.17	41.74
	Catcher processor	2	42.5	21.3	21.3	41.7				

Source: NMFS Restricted Access Management IFQ database, crab fishing year 2007-2008.

Note: These share holdings data are publicly available and non-confidential.

The few QS holders in the fishery have used measures provided by the rationalization program to concentrate activity in the fishery beyond that of QS holdings. Exclusive allocations have been organized in harvest cooperatives reducing the fleet to two catcher vessels and a single catcher processor, all of which have fished only cooperative allocations. In the first three years of the program, in excess of 99 percent of the annual IFQ has been allocated to the three cooperatives that have formed in the fishery. Gains arising from IFQ are also suggested by the changes in pot usage, pot lifts, and catch per unit effort in the fishery (see Table 4). In the first three years of the program, the number of registered pots per vessel has increased substantially, but the number of pot lifts in the fishery has fallen. Catch per unit effort has also risen substantially, suggesting that participants' use greater numbers of pots and allowing those pots to soak for longer periods has increased catch rates.

DRAFT

Table 4. Pot usage and catches in the Western Aleutian Islands golden king crab fishery (2000/1 through 2007/8).

WAG

Season	Number of pots registered*	Number of pot lifts *	Lifts per registered pot*	Average catch per unit effort (crabs per pot lift)*	Pots per vessel	Pounds per pot
2000 - 2001	8,910	101,239	11.4	7	743	28.7
2001 - 2002	8,491	105,512	12.4	7	943	25.5
2002 - 2003	6,225	78,979	12.7	8	1,038	33.0
2003 - 2004	7,140	66,236	9.3	10	1,190	39.8
2004 - 2005	7,240	56,846	7.9	12	1,207	46.4
2005 - 2006	4,800	27,503	5.7	21	1,600	86.6
2006 - 2007	6,000	22,694	3.8	20	2,000	88.2
2007 - 2008	4,800	25,287	5.3	21	1,600	88.8

Sources: *ADFG Annual Management Report and **fishtickets and **NMFS RAM catch data (for 2005-2006, 2006-2007, and 2007-2008)

As might be expected, since implementation of the program, catcher vessel fishing has been extended over a longer period of time (see Table 5). Substantial time periods between landings (or breaks in fishing) appear to have developed with the temporal dispersion of the fishery. QS holders in the fishery assert that the large spreads between the first delivery and the last deliveries in the second and third years arise largely from the lack of available processing capacity in the West region. These QS holders assert that landings during the second and third years were delayed because participants relied on the shore plant at Adak to handle processing in the West region of the fishery, rather than establishing alternative platforms to support West region landings. Prolonged negotiations concerning processing arrangements between IPQ holders and the Adak processor are said to have delayed processor availability during those two years.

Table 5. Seasons and deliveries in the Western Aleutian Islands golden king crab fishery (2005/6 through 2007/8).

wag

Season	Season opening	Date of first delivery	Date of last delivery	Season closing
2005-2006		September 6	March 25	
2006-2007	August 15	September 10	May 6	May 15
2007-2008		September 14	May 21	

Source: RAM IFQ landings data

Throughout this time, the 30 percent processing share use cap has prevented any single plant from processing all of the West region IPQ deliveries. When implemented, a use cap exemption adopted by the Council applicable to custom processing will remove this regulatory impediment to a single processor receiving all West region IPQ deliveries, thereby facilitating processing efficiencies in the West region of the fishery. Whether the exemption will resolve uncertainties concerning availability of processing capacity in the West region is not known. Some of the delays in landings have arisen because holders of most of the IPQ in the fishery do not own shore-based processing facilities in the region. In recent years, negotiations between the single shore-based plant owner and IPQ holders have lasted well into the season, which is said to have prevented harvesters from planning fishing.

Although harvesters did not fully harvest the IFQ in the fishery in the second and third years of the program, it is not clear that IFQ holders used tools provided by the program that could assist them. No binding arbitration actions have taken place in the fishery in the first three years of the program. Some

DRAFT

harvesters have suggested that they have avoided use of the arbitration system because they believe it will be ineffective and could hurt their positions in the fishery. These participants believe that use of this adversarial system could damage relationships between the sectors in the fishery. Although it is clear that the adversarial nature of the arbitration system can stress relationships, it is unclear whether use of the system would damage relationships as contended. The system has been used effectively in other fisheries. While it has stressed relationships among participants at times, it is not believed to have had long term detrimental effects on those relationships. In actuality, the use of the arbitration system in those other fisheries might be argued to have had a positive effect on relationships, since it has clarified expectations.

In addition, it is asserted that the arbitration system may be ineffective because IPQ holders have used custom processing relationships to process landings in the region. It is clear that an arbitrator is likely to have no authority to compel a plant processing under a custom processing relationship to accept any delivery. The arbitrator is also unlikely to have authority to compel an IPQ holder to accept a delivery. Regardless of who is engaged in the physical processing of the delivery, the arbitrator's only authority is to establish a contract that binds both the IFQ holder and IPQ holder. Any failure to comply with that contract would be enforceable only through a civil action. So, an IPQ holder's failure to perform could be grounds for damages against that IPQ holder. Although the IFQ holder would have no action against the plant processing under the custom processing arrangement, it is unclear how the IFQ holder is disadvantaged, since the suit could be pursued against the IPQ holder. In addition, given the prevalence of custom processing in all fisheries under the program, it is unclear how this differs from the circumstances in any other fishery. In those other fisheries, the arbitration system has effectively protected IFQ holder interests.

Development of an emergency exemption from regional landing requirements

The first request from the Council is to examine the development of a mechanism to provide an exemption from regional landing requirements, in the event that processing capacity is unavailable. Since the only regional landing requirement in the fishery pertains to IFQ and IPQ required to be used in the West region, this exemption would apply only to those Class A IFQ bearing the west region designation.

The Council is currently considering a general emergency exemption from regional landing requirements applicable to all fisheries that would be available to holders of Class A IFQ, in the event that unforeseen circumstances prevent compliance with regional landing requirements. The specific terms of the exemption are currently being developed. The exemption would be applicable only when an event beyond the control of the IFQ and IPQ holders prevent compliance with regional landing requirements. Although the measure proposed here uses similar terms (i.e., it is proposed as an "emergency exemption"), the availability of processing capacity is clearly within the control of the IPQ holder. Although most IPQ holders do not have shore plants in the region, floating processors (including catcher processors) could be contracted to take delivery of landings of Class A IFQ in the West region. Given the circumstances and the ability of PQS holders unable to participate in the fishery to choose not to apply for IPQ, the lack of processing capacity to receive landings that has occurred to date would not seem to qualify for an "emergency exemption".

Since the emergency exemption provision being developed generally does not seem to apply, the question arises as to whether an alternative provision could be developed that would fairly address the interests of IFQ holders and IPQ holders and the region. In considering a potential exemption, the availability of processing capacity could be argued to be beyond the control of the IFQ holder.² If this view is accepted,

² Whether processing capacity availability is beyond the control of the IFQ holder could be debated, if the IFQ holder did not attempt to use the arbitration system to compel an IPQ holder to receive a delivery. Since the

DRAFT

it could be argued that an IFQ holder should be permitted to exercise the exemption once it is determined that processing capacity will not be available in the region. The season for Aleutian Island golden king crab opens August 15th and continues until May 15th the following year. Requiring processing capacity to be available at all times during this period is clearly unnecessary, as the fishery supported fewer than 20 landings in each of the first three years. On the other hand, allowing a processor to make capacity available at some undefined time during the season is also inappropriate, since it prevents any reasonable planning on the part of a harvester. To allow the program to achieve its intended benefits, it is necessary that participants in both sectors be able to plan their activities in the fishery. This planning would allow participants to coordinate crab fishing with activity in other fisheries and minimize operating costs within the crab fishery. Any system that is intended to apply an exemption when processing capacity is unavailable should balance these competing needs by ensuring that processing capacity is available for a reasonable, but not protracted, period of time.

A possible system could be to include notices among IFQ and IPQ holders for defining periods during which processing capacity would be available. If capacity is unavailable during that time, the exemption would be granted. For example, a requirement could be added that at the time of share matching, an IPQ holder must notify the matching of IFQ holder of the period when capacity will be available for the deliveries. The time requirement would need to be developed based on discussions with participants in both sectors and could depend on the quantity of crab subject to the share matching commitment. Once the delivery period is noticed, a processor would be obligated to provide processing capacity for deliveries or would forfeit any privilege to the delivery through the exemption. So, an IFQ holder who wished to make a delivery to the processor during the period would notify the processor of the delivery date (or a window). If capacity is not available to receive the delivery during the appointed window, the harvester would be permitted to file a statement of qualification for the exemption and make the delivery outside of the designated region without any obligation to match to IPQ. To ensure that the IPQ holder does not choose to make capacity unavailable in the region as a measure of convenience, a prohibition could be included that prevents the IPQ holder (either as a plant or a buyer) from receiving the delivery subject to the exemption. Effectively, the IPQ holder by not making capacity available would forfeit any potential interest in the delivery and could not compete for the delivery once it chose not to use its IPQ.

The development of this exemption may not be without shortcomings. First, in the form suggested here, the exemption would not protect the region (or communities in the region) in the event that IPQ holders choose not to process in the region. Yet, if communities in the region are not willing or able to support processing to a level needed to draw in the holders of regionally designated IPQ, one might question the merits of retaining those regional designations. While this may seem a callous argument, it should be noted that the West designation provides no direct protection to any single community or to any community at all. The requirement is that processing be conducted in a location west of 174° West longitude simply ensuring that processing will take place in that area. Any such processing could be on a floating platform outside of any community. Processing might be drawn to a community by the use cap exemption for custom processing, which applies only to processing onshore or at a docking facility within community boundaries. A second shortcoming in the exemption arises from its administrative complexity. Making a determination of whether processing capacity is available (and whether the exemption applies) may not be a simple. It is possible that a processor may request that a harvester wait for a period of time to offload. Assessing when the wait is excessive to an extent that qualifies for the exemption is a matter of judgment that will require some careful discretion. Administering an exemption in a manner that provides clear and predictable outcomes for participants is critical its effectiveness.

arbitration system has not been used in the fishery to date, it could be argued that IFQ holders have not taken all reasonable steps to ensure processing capacity is available.

DRAFT

Additionally, it is unclear whether an exemption of this type provides additional protections to IFQ holder interests beyond that currently available under the arbitration system. Under that system, an IFQ holder could bring an arbitration action to compel a processor to accept deliveries within a certain time period, as the system provides the arbitrator with authority to determine all terms of delivery. Once established, the processor would be required to make capacity available within the terms of the agreement or compensate the IFQ holder for any damages. An exemption would allow the IFQ holder to make delivery outside of the region, which could prevent a portion of the TAC from going unharvested, if a processor compelled by an arbitration finding elected to reject deliveries, instead risking a future action from the IFQ holder for compensation. Whether an IPQ holder would risk such an action is uncertain.

Although it is possible to fashion an exemption to regionalization that might address concerns of some participants in the fishery, it is not clear that the exemption can effectively balance the interests of IFQ holders, IPQ holders, and stakeholders in the region. Development of an effective exemption will likely require substantial efforts on the part of all interested parties.

Removal of processing shares from the West Aleutian Islands golden king crab fishery

An alternative to developing a provision for an emergency exemption from regional landing requirements is a proposal to remove processing shares from the fishery. The proposal includes consideration of options to remove processing shares from the West region only and to compensate PQS holders who lose shares as a result of the measure. The change would be intended to allow additional flexibility to increase efficiencies that arise from the share matching system, which could help prevent stranding of resources that could arise, if market conditions are inadequate to support market restrictions arising from processing shares.

Several effects of this proposed change would arise generally under any action to remove processing shares from any of the crab fisheries. Since the Council has requested a separate discussion paper concerning the removal of processing shares from all fisheries, to avoid redundancy, the discussion here focuses only on issues that are unique to the Western Aleutian Islands golden king crab fishery. When issues surface in this discussion that are common to all fisheries, reference is made to that more general paper.

Removal of all processing shares from the Western Aleutian Islands golden king crab fishery would be intended to ensure that IFQ holders could deliver to a processor with available capacity. Clearly, allowing full discretion to IFQ holders to freely negotiate all terms of delivery (including the buyer and delivery time and location) will ensure that IFQ holders have the greatest latitude to make certain that landings are not prevented by lack of available processing capacity. In addition, the removal of IPQ landing requirements will increase flexibility, which should improve harvester efficiencies; however, whether overall production efficiency will be increased is uncertain. It is possible that, at times, harvesters considering their own efficiencies could impose terms on processors that reduce processor efficiency in the fishery. These inefficiencies are unlikely to persist, as processors will respond through pricing adjustments to account for the inefficiencies arising from delivery scheduling.

As suggested by the introduction of pricing to the discussion, processors will also be compelled to compete for landings in the fishery, if IPQ are removed. This competition for landings will affect the distribution of benefits between the harvesting and processing sectors and will affect the interests of current PQS holders (most importantly, those who have acquired PQS since program implementation). To address these distributional concerns, PQS holders could be compensated for the loss of their shares. To avoid redundancy, the distributional effects (including potential PQS holder compensation) are discussed

DRAFT

in the paper concerning the removal of processor shares from all fisheries that is being presented at the same time as this paper.³

Removing all processing shares from the fisheries would also have other effects, as landings would be free to be redistributed geographically, without regard to the current regional boundary. The effects of the removal could draw landings to either side of the regional boundary depending on the responses of the participants in the fisheries. Harvesters are likely to save on operating costs by delivering to plants in the West region that are closer to the fishing grounds, but may prefer to make landings outside the West region, as crab prices may be higher and supplies and services may be more available and cheaper. Processor decisions of whether to operate in the West region are also likely to be affected by a variety of factors, including conditions and limitations in other fisheries (such as the Aleutian Island cod fishery). For example, the existing shore plant in Adak relies on both Pacific cod and crab processing to support its facility. The viability of the plant likely depends on the availability of both species. Similarly, the proposed shore plant in Atka, and possibly the introduction of a floating processor in area defined by the West region, might require the processing of both species to be economically feasible. Since processing in the West region may require a broader base of available inputs, the potential for processing to be undertaken in the West in the absence of the regional designation may depend on the status of non-crab fisheries that produce those other inputs.

To maintain processing in the West region, the Council could continue to apply the regional designation to West region IFQ. Under this approach, the 50 percent of the IFQ currently allocated as West region Class A catcher vessel IFQ would continue to be required to be landed west of 174° west longitude, but could be marketed to any processor operating in that region. Maintaining the regional landing requirement would be intended to ensure that communities in the West region continue to benefit from processing activity in the fishery. Whether that benefit actually flows to communities will depend on the potential for communities to attract landings, either through a shore based processor or through floating processors within community boundaries. If floating processors elect to process outside of any community, it is possible that little benefit to communities would arise from applying regional landing requirements. In addition, if a processor undertakes processing in the West region to meet a regional landing requirement, it is possible that it could attract landings that are not subject to the regional landing requirement by offering a price competitive with prices offered in locations more distant from the fishing grounds. Through this competition, it is possible that the removal of IPQ landing requirements from all IFQ in the fishery could result in additional landings in the West region.

Although applying regional landing requirements could ensure that processing is undertaken in the West region, some harvesters have expressed concern over applying regional landing requirements as a part of an action to remove IPQ. These harvesters believe that the absence of active processors in the West region in recent years may persist leading to limited (or no) competition for West region landings. The potential for competition for these landings may depend on activity in other fisheries in the West region (particularly groundfish fisheries). If little groundfish are landed in the region, it is possible that competition will be very limited for crab landings required to be landed in the region. A lack of competition in the region could be very challenging for harvesters, who might be compelled to accept a minimal price for landings and accommodate a processor's schedule when making deliveries.

Since the lack of processor capacity is asserted to have occurred only in the West region, it has been suggested that the Council consider an option to remove only those processor shares that are currently

³ In considering the effects of the extinguishing processor shares discussed in the companion paper, it should note that rights of first refusal do not apply to processor shares in the Western Aleutian Island golden king crab fishery. Consequently, issues related to rights of first refusal are not relevant here.

DRAFT

designated for landing in the West region. Processor shares subject to no regional designation would continue to be issued, along with the accompanying undesignated Class A IFQ. This proposal could be intended to allow free marketing of West designated landings to ensure that processor capacity is available to support landings. By removing the IPQ landing requirements from these IFQ, holders could market landings to any processor in the West region.

Competition in the West region would likely be less under this proposal than under the proposal to remove all processor shares from the fishery. The dampening of West region competition arises from the restrictions on landings arising from the undesignated IPQ. Although those landings could be drawn to the West region, by a processor willing to operate in the West and able to either acquire those IPQ or arrange custom processing. This constraint arising from undesignated IPQ could limit the extent of competition, as economies of scale could be limited by lack of access to those landings to processors operating in the West region. These effects on competition could reduce harvesters' ability to negotiate delivery times and prices for these landings in the region.

The effect of the removal of processor share landing requirements from all West designated IFQ on communities in the West region is uncertain. Since the West designated IFQ formerly limited by IPQ landing requirements would be free to be landed with any processor, it is possible that the existing shore plant in Adak, which holds little IPQ, would gain an advantage in landings. That plant received most of landings in the West region in the first year and all of the landings in the second and third year of the program. Yet, its need to reach agreement concerning the usage of IPQ with holders of PQS has complicated arrangement of those landings for the plant.⁴ Although the plant in Adak could attract additional landings with the removal West designated IPQ, it could lose deliveries if processor shares are removed from the fishery and other platforms choose to compete for those landings.

The Council should also consider the necessary scope of its action and the effects of the action in determining whether to advance this proposal. Some advocates for the action suggest that any action short of removal of all IPQ and all regional designations from the fishery would be inadequate for addressing the problem. These participants assert that removal of IPQ and retaining West designated IFQ would result in little or no processing competition for West designated landings. These participants contend that processors based in the West region will have a competitive advantage over processors in other locations that are more distant from the fishing grounds. This advantage is argued to provide West region based processors with an opportunity to attract all processing in the fishery. Although this locational advantage may exist, it is possible that other considerations could limit the amount of processing drawn to the region, in the absence of regional designations. Processors outside of the region have long term relationships with harvesters in the fishery (including relationships that extend into other fisheries). Those relationships could outweigh any locational advantage of West region facilities. Despite these relationships, it is possible that the locational advantage could be used to attract midseason deliveries from harvesters wishing to avoid travel costs of making deliveries to more distant locations outside of the West region.

⁴ The 30 percent cap on processing share use has also constrained the ability of the Adak plant to receive deliveries to date. The exemption of custom processing from the cap could facilitate additional deliveries at the plant, once that exemption is put in place; however, custom processing arrangements will need to be entered to facilitate the use of the IPQ at the plant.

DRAFT

Conclusion

Several aspects of the Western Aleutian Island golden king crab fishery management should be considered as the Council approaches an action to remove IPQ (or a portion of the IPQ) from the fishery or establish an exemption from regional landing requirements. Most importantly, the potential for elements of the program (or in the process of being introduced into the program) to address the stated problem should be assessed prior to advancing changes. Specifically, the Council should assess the potential of the arbitration system to address delivery complications that are said to have been an obstacle to harvest of the TAC. Harvesters have elected not to use that system, asserting that the system will not address their concerns (or will have too many detrimental effects to be a useful tool for addressing the problem). These IFQ holders remain concerned that the use of the arbitration system would damage harvester/processor relationships and possibly provoke retribution from IPQ holders. Also, the Council undertook a previous action to exempt custom processing from processor use caps in the fishery. This exemption could address some of the complications in harvesting the TAC that is the Council's stated purpose for this action. Allowing that new provision to be implemented and sufficient time to assess its potential to address the stated problem could obviate the need for this action. In determining whether to advance this action, the Council should consider whether it is appropriate to allow time for these elements to operate pursuing program changes. In addition, the incentive for those supporting program changes to resolve fishery problems with existing program elements may be reduced to the extent that they perceive a potential willingness on the part of the Council to consider those program changes. These incentives may exacerbate problems in the fishery, if the Council protracts its consideration of whether (or not) to advance management changes.