

C-4 (c) Crab custom processing exemptions to processing use caps

The Council adopts the following purpose and needs statement:

In remote areas and small TAC fisheries, the extended fishing seasons under rationalization may cause processing activity to be extended over a longer period of time. This temporal extension of processing activity, together with the lower throughput levels, limits the ability of processors to achieve production efficiencies. Allowing concentration of processing in fewer facilities, by exempting custom processing at a plant from the use cap of the plant owners, could increase processing efficiency. This efficiency increase could improve competition in processing. In some cases, exemption of custom processing at a facility from use caps of the owner could provide for contingencies in the event of a facility breakdown, assist in allowing full harvest of the TAC, and contribute to community sustainability.

In remote areas (e.g. the western region) with small TAC fisheries for crab species (e.g. WAI golden king crab) and extended fishing seasons, the goals of sustaining communities in the region and allowing the full harvest of the TAC could be better achieved by exempting custom processing beyond the processing use cap by processors.

Two of the objectives of the proposed action are to protect the economic base of remote communities dependent on crab processing, and to allow for the efficient prosecution of quota held by fishermen.

The Council adopts the following elements and options:

Fisheries and Regions:

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

The North region of the Bering Sea *C. opilio* fishery (analyzed here for regulation change from MSA reauthorization – not optional)

- Option 1) the Western Aleutian Islands golden king crab fishery,
Suboption: West region only
- Option 2) the Western Aleutian Islands red king crab fishery,
- Option 3) the Eastern Aleutian Islands golden king crab fishery,
- Option 4) the St. Matthew Island blue king crab fishery, and
Suboption: North region only
- Option 5) the Pribilof Islands red and blue king crab fishery
Suboption: North region only

Definition of custom processing exemption:

- Option 1) Physical processing of crab at a facility owned by an entity does not count toward the cap of the entity (only processor share holdings count toward an entity's cap).
- Option 2) Custom processing is the processing of crab received with IPQ that has 50 percent or less common ownership with the processing plant.

Locations qualified for the exemption:

Custom processing will qualify for the exemption provided that processing is undertaken in the applicable fishery and region at:

- Option 1) a shore plant
- Option 2) a shore plant, or a floating processor that is moored at a dock or docking facilities (e.g. dolphins, permanent mooring buoy) in a harbor in a community that is a first or second class city.

Option 3) any shore plant or floating processor

Facility cap

Outside of the West region, no facility may process more than 60% of

- a) EAI golden king crab
- b) WAI red king crab

Provisions to protect interests of the community of origin

Additionally, the Council adopts the following options and purpose and needs statement regarding community interests:

Under the rationalization program, community interests in historic processing are protected by granting communities a right of first refusal on the transfer of shares from the community of origin. In some instances, the combination of consolidation of processing share holdings and the counting of processing at a plant against the plant owner's cap on the use of processing shares could complicate the retention of processing in the community of origin. Exempting processing of shares in the plant of origin from the use cap of the plant owner could facilitate retention of historical processing in communities.

- Option 1) In the event that processing shares are transferred to the community entity holding the right of first refusal for those shares, the processing of those shares in the community of origin will not count toward the cap of the processing plant.
- Option 2) In the event that processing shares subject to a right of first refusal are transferred from the initial recipient, custom processing of shares in the community of origin will not be counted toward cap of processing plant (the shares would only count toward the cap of the share holder).

North Pacific Fishery Management Council
June 11, 2007

C-4 (d) Active Participation requirements for C shares

The Council adopts the following proposed purpose and need statement, elements and options:

Owner on board requirements and leasing prohibitions on C shares are scheduled to go into effect after the third year of fishing under the program. Those rules may be overly burdensome to active captains and crew given the current fleet fishing patterns in which vessels may not be active in all fisheries some years. Also, under the current rules in the program, C share holders that are cooperative members are exempt from owner on board requirements and leasing prohibitions. Revisions to the current participation requirements are necessary to establish reasonable participation requirements for C share holders and to ensure that the all C share holders remain active in the fisheries.

The current requirement that a person have participated in the fishery during the 365 days preceding an acquisition of C shares has the effect of preventing some displaced long-time captains and crew from acquiring share holdings that would be useful for securing or maintaining position in the fisheries. A revision to the current requirements for active participation could address this problem by providing long-term participants with the opportunity to acquire shares.

Elements and options

Status quo

Options for revision of active participation requirements for C share holders:

Option 1: To receive an annual allocation of IFQ, a C share holder must have participated in at least one delivery in a fishery subject to the crab rationalization program in the 365 days preceding the application for IFQ.

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that 3 percent of the TAC is available to active C share holders

Option 2: If a C share holder has not demonstrated active participation in a rationalized crab fishery for a period of 3 consecutive seasons, that C share holder will be required to divest of all C share holdings. This provision will not require individuals to divest of Quota Share until a) 5 b) 7 years after implementation of the crab program.

Options to address current transition:

For a period of 3, 5, or 7 years from the implementation of the program, C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historic participation), and

Option 1: received an initial allocation C shares

Option 2: demonstrates participation in a rationalized crab fishery during

- a. 3 of the 5 seasons or
- b. 2 of the 3 seasons

immediately preceding implementation of the crab rationalization program

Additionally, the Council requests staff to write a letter to NMFS financial services expressing its intent that the funds dedicated to the loan program be made available on a priority basis to entry level crew by establishing a maximum aggregate QS holding threshold similar to the halibut and sablefish loan program.

Further, the Council adopts the Purpose and Need Statement concerning Processing Share and Regional Landing Requirements:

In the crab rationalization program, the Council created a C share pool (comprised of three percent of the total harvest share pool) intended to benefit captains and crew active in the fishery. To provide stability to processors and regions that support crab processing, the Council also created processor share and regional landing requirements applicable catch landed using harvest shares under the program. For the first three years of the program, the Council elected to exempt C shares from any processor share or regional landing requirements to allow time for C share holders to adapt to the new management. The Council also stated its intent to review the application of processor share and regional landing requirements to C shares after 18 months of fishing under the program to determine whether application of those landing requirements to 90 percent of the C share allocation would be appropriate. The application of processor share and regional landing restrictions would greatly complicate use of C shares and could severely diminish the value of these shares to their holders. The value of C shares would also be diminished by their inclusion in the arbitration program, which is necessitated by the application of processor share landing requirements. To allow C share holders to receive maximum benefit of those shares, the exemption of those shares from processor share and regional landing requirements should be considered.

C-4 (e) Post delivery transfers

Post delivery transfer actions for crab fisheries and rockfish fisheries

The Council creates separate crab and rockfish post-delivery transfer amendment packages for analysis on a parallel basis.

Post delivery transfers in the crab fisheries

The Council adopts the following purpose and needs statement:

Under the crab rationalization program, harvesters receive annual allocations of individual fishing quota that provide an exclusive privilege to harvest a specific number of pounds of crab from a fishery. Any harvest in excess of an individual fishing quota allocation is a regulatory violation punishable by confiscation of crab or other penalties. Precisely estimating of catch at sea during the fishery is difficult and costly due to variation in size of crab, and sorting and measurement requirements. Overages can result from inadvertent mistakes by participants attempting to accurately estimate catch. A provision allowing for post-delivery transfer of individual fishing quota to cover overages could reduce the number of inadvertent violations, allowing for more complete harvest of allocations, and reduce enforcement costs without increasing the risk of overharvest of allocations.

Further, the Council adopts the following alternatives and options:

Alternative 1 – Status Quo (no post-delivery transfers)

Alternative 2 – Unlimited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

- B share IFQ
- A share IFQ (provided a processor simultaneously commits matching IPQ)
- C share IFQ
- catcher processor IFQ
- IPQ

Limits on the magnitude of a post-delivery transfer

None

Limits on the number of post-delivery transfers

None

Limits on the time to undertake a post-delivery transfer

A post –delivery transfer will be permitted after a landing for a catcher vessel (or weekend date for a catcher processor) for a period of 30 days.

Suboption: All post-delivery transfers must be completed by the end of the crab fishing year (June 30th).

Eligibility for post-delivery transfers:

1. All harvesters
2. Inter-cooperative members
 - The intercooperative must
 - a. Represent 30%, 50%, or 65% of the IFQ for the fishery
 - b. Have established reserve pool mechanisms
 - c. Have an authorized representative to manage transfers with RAM

Alternative 3 – Moderate limited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

- B share IFQ
- A share IFQ (provided a processor simultaneously commits matching IPQ)
- C share IFQ
- catcher processor IFQ
- IPQ

Limits on the magnitude of a post-delivery transfer

Each post-delivery transfer shall be limited to 10,000 pounds of IFQ (or IPQ).

Limits on the number of post-delivery transfers

Possible options

For each species, an IFQ (or IPQ) holder is limited to receiving post-delivery transfers to cover two overages.

No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.

Limits on the time to undertake a post-delivery transfer

Post-delivery transfers will be permitted after a landing for a catcher vessel (or weekending date for a catcher processor) for a period of 15 days.

Suboption: All post-delivery transfers must be completed by the end of the crab fishing year (June 30th).

Eligibility for post-delivery transfers:

1. All harvesters
2. Inter-cooperative members
 - The intercooperative must
 - a. Represent 30%, 50%, or 65% of the IFQ for the fishery
 - b. Have established reserve pool mechanisms
 - c. Have an authorized representative to manage transfers with RAM

North Pacific Fishery Management Council
June 12, 2007
St. George Community Provisions

From Staff Tasking

Purpose and Need Statement

The intent of community protection measures in the crab rationalization program may not have been met in St. George due to unavoidable circumstances including a federal declared disaster. While processing history was generated from St. George, no crab has been processed in St. George under the crab rationalization program. As a result, the two year “cooling off” period will expire June 30, 2007 and the three year right of first refusal (ROFR) will expire June 30, 2008, if IPQ designated for St. George is not used in the community in the 2007/2008 season.

In order to fulfill the original intent of the community protection measures, the Council will initiate an analysis for an FMP amendment to the community protection provisions. The amendment will restart and/or extend the time period for community protection measures (ROFR and “cooling off” period) for St. George. NFMS has indicated that such an amendment will likely not be in place for the 2007/2008 season. However, the intent of the community protection measures may be met by extending the measures into the future.

Alternatives

Alternative 1: Status quo

Alternative 2: Extension of community protection provisions. Begin a new two-year cooling off period and a new ROFR three-year period with a starting date of October 1, 2008 (unless the ROFR can be renewed prior to expiration).

Alternative 3: Extension of community protection provisions. Begin a new one-year cooling off period and a new ROFR three-year period with a starting date of October 1, 2008 (unless the ROFR can be renewed prior to expiration).