



NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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Action Memo

File Number:Catch 17-001

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Dan Hull, Chairman
Chris Oliver, Executive Director

SUBJECT:
CDQ Ownership Caps - Initial Review

STAFF CONTACT: Sarah Marrinan

ACTION REQUIRED:
Review analysis and take action as necessary

BACKGROUND:

Magnuson-Stevens Act requires the Council and the NMFS to establish limitations on ownership and use of limited access privileges (LAPs) to prevent the excessive consolidation of privileges. In response to this direction, the Council has developed different excessive share caps in each of the LAP programs implemented in Alaska's fisheries. NMFS implemented the excessive share regulations for two LAPs relevant to this analysis: the AFA Program in 2002 and for the Crab Rationalization Program (CR Program) in 2005.

Based on direction provided by Congress in the Magnuson-Stevens Act and by the Council in developing the AFA and CR Programs, the regulations originally specified that NMFS will use two different methods to attribute ownership and use of harvesting and processing privileges under the AFA and CR Programs. One method, called the "10-percent" rule, attributes 100 percent ownership or use of LAP privileges to an entity if they hold at least 10 percent equity in the QS holding entity. The second method is the "individual and collective" rule. Under the individual and collective rule, a person is attributed ownership or use of LAP privileges proportionally to their ownership in other entity. Thus, under an excessive share limit, the individual and collective rule would allow a company to own or use more LAP privileges than if the company was evaluated using the 10-percent rule.

In addition to their allocations under the CDQ Program, CDQ groups participate in other LAP programs, including AFA and the CR Program by purchasing quota shares or through ownership of vessels and processors that participate in these fisheries. Prior to the 2006 revision in the Magnuson-Stevens Act, NMFS used the 10-percent rule for CDQ groups in the AFA Program and the PQS harvesting and use caps in the CR Program. In 2006, the Magnuson-Stevens Act was revised to direct that CDQ groups be subject to excessive share ownership, harvesting, or processing limitations using the individual and collective rule to attribute ownership. Since the 2006 amendment to the Magnuson-Stevens Act, NMFS has implemented the proportional ownership attribution method for CDQ groups to monitor excessive share caps in the AFA Program and the CR Program; however, the regulations for the AFA Program and the CR Program and the Fishery Management Plan for BSAI Crab FMP have not been revised to reflect this change. This action would revise regulations and the Crab FMP for consistency with the Magnuson-Stevens Act and current practice.