

(a)(1)(i) of this section that landed less than 1,212,673 lb (550 mt), in raw weight equivalents, of Bering Sea snow crab, and had 20 or more legal landings of pollock harvested from the GOA between January 1, 1996, and December 31, 2000; and

(ii) Any LLP license that:

(A) Was initially issued based on the catch history of a vessel meeting the criteria in paragraph (a)(4)(i) of this section; and

(B) Did not generate crab QS based on legal landings from any vessel other than the vessel meeting the criteria in paragraph (a)(4)(i) of this section.

\* \* \* \* \*

(d) *Determination of GOA groundfish sideboard ratios.* Except for fixed-gear sablefish, sideboard ratios for each GOA groundfish species, species group, season, and area for which annual specifications are made are established according to the following formulas:

\* \* \* \* \*

(2) *Pollock.* The sideboard ratios for pollock are calculated by dividing the aggregate retained catch of pollock by vessels that are subject to sideboard directed fishing closures under paragraph (a)(1) of this section and that do not meet the criteria in paragraph (a)(4) of this section by the total retained catch of pollock by all groundfish vessels between 1996 and 2000.

(3) *Groundfish other than Pacific cod and pollock.* The sideboard ratios for groundfish species and species groups other than Pacific cod and pollock are calculated by dividing the aggregate landed catch by vessels subject to sideboard directed fishing closures under paragraph (a)(1) of this section by the total landed catch of that species by all groundfish vessels between 1996 and 2000.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 680

[Docket No. 100723308-1315-02]

RIN 0648-BA11

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; Amendment 37

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 37 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). This action amends the Bering Sea/Aleutian Islands Crab Rationalization Program by establishing a process for eligible contract signatories to request that NMFS exempt holders of West-designated individual fishing quota (IFQ) and individual processor quota (IPQ) in the Western Aleutian Islands golden king crab fishery from the West regional delivery requirements. Federal regulations require West-designated golden king crab IFQ to be delivered to a processor in the West region of the Aleutian Islands with an exact amount of unused West-designated IPQ. However, sufficient processing capacity may not be available each season. This rule is necessary to prevent disruption to the Western Aleutian Islands golden king crab fishery, while providing for the sustained participation of municipalities in the region. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

**DATES:** Effective July 20, 2011.

**ADDRESSES:** Electronic copies of Amendment 37 to the FMP, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA), the Small Entity Compliance Guide, and the Categorical Exclusion prepared for this final action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>. The Environmental Impact Statement, RIR, FRFA, and Social Impact Assessment prepared for the Crab Rationalization Program are available from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the above address, e-mailed to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or faxed to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:**

Seanbob Kelly, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The king and Tanner crab fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the FMP. The FMP was

prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801).

This final rule implements Amendment 37 to the FMP. In April 2010, the Council recommended Amendment 37 to the Secretary of Commerce. NMFS published a Notice of Availability of this amendment in the **Federal Register** on February 1, 2011 (76 FR 5556), with comments invited through April 4, 2011. NMFS published the proposed rule for this action on February 25, 2011 (76 FR 8700), with comments invited through April 1, 2011. NMFS approved Amendment 37 on April 25, 2011. NMFS received three unique comment letters during the public comment period for Amendment 37 and the proposed rule; however, these comments did not result in any modification to the proposed regulation text. These comments are discussed in greater detail below.

#### Background

Amendments 18 and 19 amended the FMP to include the Bering Sea/Aleutian Islands Crab Rationalization Program (Program). Regulations implementing the Program are located at 50 CFR part 680. NMFS established the Program as a catch share program for nine crab fisheries in the BSAI. The IFQ portion of the Program assigned quota share (QS) to persons based on their historic participation in one or more of these nine BSAI crab fisheries during a specific time period. Under the Program, NMFS issued four types of QS: Catcher vessel owner (CVO) QS was assigned to holders of License Limitation Program (LLP) licenses who delivered their catch onshore or to stationary floating crab processors; catcher/processor vessel owner QS was assigned to LLP holders that harvested and processed their catch at sea; captains and crew onboard catcher/processor vessels were issued catcher/processor crew QS; and captains and crew onboard catcher vessels were issued catcher vessel crew QS. Each year, a person who holds QS may receive IFQ, which represents an exclusive harvest privilege for a portion of the annual total allowable catch (TAC). Under the program, QS holders can form cooperatives to pool the harvest of the IFQ on fewer vessels to minimize operational costs.

NMFS also issued processor quota share (PQS) under the Program. Each year, PQS yields an exclusive privilege to receive for processing a portion of the

IFQ in each of the nine BSAI crab fisheries. This annual exclusive processing privilege is called IPQ. A portion of the QS issued yields IFQ that is required to be delivered to a processor with a like amount of unused IPQ. IFQ derived from CVO QS is subject to annual designation as either Class A IFQ or Class B IFQ. Ninety percent of the IFQ derived from CVO QS for a fishery and region is designated as Class A IFQ, and the remaining 10 percent of the IFQ is designated as Class B IFQ. Class A IFQ must be matched and delivered to a processor with IPQ. Class B IFQ is not required to be delivered to a processor with IPQ. Each year there is a one-to-one match of the total pounds of Class A IFQ with the total pounds of IPQ issued in each crab fishery and region.

In most of the crab fisheries established under the Program, NMFS implemented regional designations for QS and PQS to ensure that municipalities that were historically active as processing ports continue to receive socioeconomic benefits from crab deliveries or to encourage the development of processing capacity in specific isolated municipalities. To accomplish this, the Program imposes regional delivery requirements to specific geographic regions based on historic geographic delivery and processing patterns.

The Western Aleutian Islands golden king crab (*Lithodes aequispinus*) (WAG) fishery is managed under the Program. Existing regulations for the WAG fishery require that 50 percent of the catcher vessel Class A IFQ be delivered in the West region (west of 174° W. Long.). The remaining 50 percent of the Class A IFQ is not subject to a regional delivery requirement. The purpose of the delivery requirement is to support the development of processing facilities in Adak and Atka, two isolated municipalities in the West region. The only shore-based processing facility capable of processing WAG in this region is located in the City of Adak; however, processing capacity in the West region may not be available each season.

In response to a lack of processing capacity in the West region, the Council recommended, and NMFS implemented, an emergency action to exempt West-designated IFQ and West-designated IPQ for the WAG fishery from the West regional designation (February 18, 2010, 75 FR 7205). NMFS extended the emergency action on August 17, 2010 (75 FR 50716). The emergency rule extension expired on February 20, 2011.

At its April 2010 meeting, the Council adopted Amendment 37 to the FMP to

address the lack of processing capacity in the West region. Amendment 37 establishes a process for QS holders, PQS holders, and the cities of Adak and Atka to request that NMFS exempt the WAG fishery from the West regional delivery requirements. The Council and NMFS recognize that the regional delivery requirements are untenable if processing capacity is not available in the region, potentially resulting in unutilized TAC. Amendment 37 establishes a means to enhance stability in the fishery, while continuing to promote the sustained participation of the municipalities intended to benefit from the West regional delivery requirements.

The RIR/FRFA prepared for this action describes the costs and benefits of Amendment 37 (see **ADDRESSES**). All of the directly regulated entities are expected to benefit from this action relative to the status quo because Amendment 37 provides an additional opportunity for landings of crab from the WAG fishery, in the event that parties are unable to reasonably access processing in the West region of the fishery.

#### Actions Implemented by This Rule

This rule modifies or adds regulations at 50 CFR 680.4(o), 680.7(a)(2), and 680.7(a)(4). These changes apply as described in the following sections of this preamble.

With this rule, NMFS implements Amendment 37 to the FMP. This rule establishes in regulations, at § 680.4(o), a process for eligible contract signatories in the WAG fishery to apply for an exemption to the West regional delivery requirements. If granted, an annual exemption will apply to all West-designated IFQ and IPQ holders. This rule allows eligible contract signatories to complete an application to NMFS requesting an annual exemption from the West regional delivery requirements. Eligible participants can submit an application to NMFS at any time during the crab fishing year. Upon approval of a completed application, NMFS will exempt all West-designated Class A IFQ and IPQ from the West regional delivery requirements for the remainder of the crab fishing year. This exemption allows all West-designated Class A IFQ and IPQ holders to deliver and receive WAG crab at processing facilities outside of the West region (§ 680.7(a)(2) and (a)(4)). This exemption is intended to promote the full utilization of the TAC.

NMFS will continue to annually issue WAG Class A IFQ and IPQ with a West regional delivery requirement but will exempt West-designated IFQ holders and IPQ holders from the West regional

delivery requirements if the required parties apply for and are granted an annual exemption. This rule removes the delivery requirements only if eligible contract signatories, who are composed of QS holders, PQS holders, and the cities of Adak and Atka, agree to apply for an exemption.

In some years, it may not be possible for fishery participants to predict the availability of West region processing capacity. Therefore, this action provides the flexibility necessary for eligible contract signatories to request an exemption at any point during a crab fishing year. In order to fully utilize the TAC in a given year, it may be necessary for fishery participants to respond quickly to unforeseen disruptions in processing capacity. From the date an exemption is approved by NMFS, all West-designated WAG IFQ could be delivered east of 174° W. long. until the end of that crab fishing year.

The rationale and effects of this action are described in detail in the preamble to the proposed rule, sections 2 and 3 of the EA/RIR/FRFA prepared to support this rule (see **ADDRESSES**), and are briefly summarized in this preamble. For additional detail, please see the proposed rule preamble.

#### Eligible Contract Signatories

This rule establishes regulations that identify the eligible contract signatories as those QS holders, PQS holders, and municipalities who are eligible to apply for an exemption from the West regional delivery requirements: (1) Any person or company that holds in excess of 20 percent of the West-designated WAG QS; (2) any person or company that holds in excess of 20 percent of the West-designated WAG PQS; and (3) the cities of Adak and Atka. Participants in the WAG fishery that hold QS or PQS are able to verify their portion relative to other QS or PQS holders by accessing the Alaska Region Web site at <http://alaskafisheries.noaa.gov>. In addition, NMFS will post the QS and PQS holdings on its Web site following the end of the transfer application period (August 1) and prior to the start of the WAG fishery (August 15).

Participants holding 20 percent or less of either share type have no direct input into the contract negotiations or applications; however, once granted, an exemption applies to all West-designated IFQ and IPQ holders. Once granted, the exemption does not obligate an IFQ or IPQ holder who is not a contract signatory to deliver outside of the West region, but does provide that flexibility.

This action ensures that the municipalities intended to benefit from

the regional delivery requirements participate in any agreement to deliver West-designated WAG east of 174° W. Long. This action requires the unanimous consent of all eligible contract signatories, to ensure that the interest of the cities of Adak and Atka are protected. The inclusion of the cities of Adak and Atka as required signatories continues to promote the development of consistent processing capacity in the West region because these municipalities would likely withhold consent to an exemption to foster local deliveries. NMFS recognizes the importance of the West regional delivery requirements and requires the unanimous agreement of all eligible contract signatories on an annual basis to exempt the WAG Class A IFQ from the West regional delivery requirements.

#### *Application*

This rule adds regulations at § 680.4(o) to establish the process for eligible participants to request an exemption for all West-designated IFQ and IPQ from the West region delivery requirements. All eligible contract signatories must submit a completed application before NMFS will approve an exemption for all IFQ and IPQ holders from the West regional delivery requirements in the WAG fishery. This action requires that all applicants sign and date an affidavit affirming that all information provided on the application is true, correct, and complete to the best of his or her knowledge. Additional documents supporting eligibility may be attached to an application to facilitate approval, including documentation supporting the authority of a representative to sign the affidavit on behalf of the eligible contract signatory.

#### *Approval of Exemption*

To be approved, all parties meeting the eligibility requirements at the time the application is submitted must signify their agreement to the exemption on the application. NMFS will grant an exemption to the regional delivery requirements if all eligible contract signatories submit a completed application form, including an affidavit affirming that a master contract has been signed by all eligible contract signatories. NMFS approval of an annual exemption from the WAG West regional delivery requirements will be made publicly available at the NMFS Web site at <http://alaskafisheries.noaa.gov>.

The evaluation of an application for an annual exemption requires a decision-making process that is subject to administrative appeal. Applications not meeting the requirements will not

be approved, and NMFS will issue an initial administrative determination (IAD) to indicate the deficiencies and discrepancies in the information (or the evidence submitted in support of the application) and provide information on how an applicant could appeal an IAD. The appeals process is described under § 679.43. However, if an application is denied, eligible contract signatories can reapply immediately or at any time during a crab fishing year. This program is designed to be flexible and includes no deadlines for submission or limits on the number of times applications could be submitted to NMFS.

#### *Duration of Exemption*

This rule retains regulations that require the West regional delivery requirements unless NMFS annually approves an application for an exemption. Regulations at § 680.4(o)(3) establish the effective date of the exemption as the date the completed application is approved by NMFS. Exemptions expire at the end of that crab fishing year (June 30) regardless of when they are approved.

#### **Public Comment**

NMFS received three unique letters during the public comment period for Amendment 37 and the proposed rule. One comment letter provided a general criticism of fishery management, and was not relevant to Amendment 37 or the proposed rule. The second comment letter noted that the Bureau of Land Management has no jurisdiction or authority as it pertains to Amendment 37. The third comment letter generally praised Amendment 37 and contained one substantive comment, responded to below. No modifications were made from proposed to final rule.

*Comment 1:* Regulations at § 680.4(o) would impose an unnecessary logistical burden on the applicants applying for an exemption from the West regional delivery requirements. As proposed, NMFS would require applicants to submit a single application signed by all parties. NMFS should revise the regulations to allow contract signatories to sign and submit multiple counterpart applications.

*Response:* Due to the logistic issues described by the commenter, NMFS Restricted Access Management Program (RAM) allows parties that submit applications for quota or license transfers to submit separate “counterparty” paperwork. Although NMFS permits the submission of multiple counterpart paperwork, this practice is not explicitly described in regulation. In response to the comment, NMFS clarifies that it will accept

multiple counterpart applications for an exemption from the West regional delivery requirements. However, NMFS cannot act on any application until all required information, and an application(s) including signatures from all contract signatories, has been received by NMFS. It is the responsibility of the applicants to ensure that RAM receives a complete application package.

Public comment letters received by NMFS for this action may be obtained from <http://www.regulations.gov> (see **ADDRESSES**).

#### **Classification**

The Administrator, Alaska Region, NMFS, determined that Amendment 37 is necessary for the conservation and management of the WAG fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws. The Assistant Administrator for Fisheries, NOAA, has determined that this rule is consistent with Amendment 37 to the FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A FRFA was prepared for this rule, as required by section 604 of the Regulatory Flexibility Act. Copies of the FRFA prepared for this final rule are available from NMFS (see **ADDRESSES**). The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, and a summary of the analyses completed to support the action. A summary of the FRFA follows.

The FRFA for this action explains the need for, and objectives of, the rule; notes that no public comments on the initial regulatory flexibility analysis were submitted; describes and estimates the number of small entities to which the rule will apply; describes projected reporting, recordkeeping, and other compliance requirements of the rule; and describes the steps the agency has taken to minimize the significant economic impact on small entities, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected. The need for and objectives of this action; a summary of the comments and responses; a description of the action, its purpose, and its legal basis; and a statement of the factual, policy, and legal reasons for selecting the alternative implemented by this action are

described elsewhere in this preamble and are not repeated here.

#### Number and Description of Affected Small Entities

The Council's preferred alternative for this action, as implemented by this final rule, will regulate certain QS holders, IFQ holders, PQS holders, IPQ holders, the communities of Adak and Atka, and possibly certain shore-based processors in those two communities. The fishery has 16 QS holders, of which 14 are estimated to be small entities. One of these entities is a community development quota (CDQ) group; one is a wholly owned subsidiary of a CDQ group; and the others do not exceed the \$4.0 million threshold. In the 2009/2010 season, the fishery had three holders of West region IFQ, two of which are estimated to be small entities. One of these is a wholly owned subsidiary of a CDQ group, and the other is estimated to have annual receipts below the \$4.0 million threshold.

The fishery had six holders of West region PQS, of which four are estimated to be small entities. One entity is a CDQ group; another is a wholly owned subsidiary of a CDQ group, and two have fewer than 500 employees. In the 2009/2010 season, the fishery had six holders of West region IPQ, three of which are estimated to be small entities. One entity is a CDQ group; another is a wholly owned subsidiary of a CDQ group, and the third has fewer than 500 employees. Both the communities of Adak and Atka qualify as small entities, as neither has more than 50,000 residents.

As noted above, all or most of the entities that are directly impacted by this regulation are small entities. This action likely will not have a significant adverse impact on some of these entities relative to the status quo alternative. The RIR/FRFA (see **ADDRESSES**) prepared for this action notes that these changes are not likely to have a significant economic impact on an LLP license holder.

#### Public Comments on Initial Regulatory Flexibility Analysis

The proposed rule for this action was published in the **Federal Register** on February 15, 2011 (76 FR 8700). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule and described in the classification section of the preamble to the proposed rule. The public comment period ended on April 1, 2011. NMFS received three unique comment letters; however, no comments were received on the IRFA or on the economic impacts of the rule

more generally. No changes were made in the final rule from the proposed rule.

#### Steps Taken To Minimize Economic Impact

During the development of this action, the Council considered and rejected alternatives that would have required the consent of holders of less than 20 percent of the pools of QS and PQS, and the consent of shore-based processors in Adak or Atka that processed over a threshold (*i.e.*, 5 percent, 10 percent, or 20 percent) of the West-designated shares in the year preceding the exemption. The Council elected not to select these options, as the large share holders could more efficiently process the exemption, and the small share holders would be adequately represented by the required parties to the exemption (including the communities of Adak and Atka). The inclusion of shareholders with less economic incentive to harvest or process West-designated WAG could impede effective negotiations by withholding participation in an exemption to extract more favorable terms from larger entities with greater economic incentive to fully harvest and process the IFQ and IPQ. IFQ and IPQ holders that are substantially invested in the fishery are more likely to act quickly to ensure that TAC is fully utilized. Similarly, holders of significant amounts of PQS are only likely to support an exemption in years when processing capacity is unavailable in the West region, thereby facilitating the processing needs of all IPQ holders.

The Council also considered a variety of other approaches to address the problem identified in the purpose and need statement. One approach considered was an exemption that would be available only after a factual finding of the absence of processing capacity. This provision could be administered either directly by NMFS or by an arbitrator selected by the interested parties. The Council elected not to advance this alternative, as factual findings of the absence of processing capacity may be administratively unworkable. With mobile processing platforms, capacity availability can change in a relatively short time period. Determinations of the availability of capacity may not be possible, given the potential for short-term changes in capacity. Small entities that are IFQ or IPQ holders would be disadvantaged by this alternative, since the exemption may be unavailable in circumstances when it might be appropriate.

The Council also considered a provision under the preferred

alternative that would have prohibited any party required to consent to the exemption from unreasonably withholding consent to the exemption. The proposed provision would have been administered by an arbitrator jointly selected by the required parties. Although such a provision might be desirable, as it would prevent persons from barring the exemption without reason, the provision would also likely be unadministerable. Even with an arbitrator, NMFS would be required to provide the interested parties with the opportunity to appeal any arbitrator decision. Under the appeal, NMFS would be required to make a *de novo* finding (*i.e.*, an original finding without deference to the arbitrator's decision). As a result, the use of an arbitrator may delay the granting of the exemption. In addition, NMFS may be unable to expeditiously process any claim, if factual matters are disputed. To accommodate time constraints associated with contesting a party's withholding consent to an exemption, a timeline for application for the exemption would need to be developed. This timeline would limit flexibility and could prevent the exemption from achieving its intended purpose. Although IFQ holders and IPQ holders that are small entities may benefit from the exemption in some circumstances, it might be denied because of another party's unreasonable decision to withhold consent. Since the provision is generally unworkable, it is unlikely that this alternative would have provided any benefit to these small entities. In addition, the provision might lead small entities to pursue administrative proceedings to challenge another required party's withholding of consent, which could be costly to small entities.

The Council also elected not to advance an alternative to remove the West regional delivery requirements altogether. Since the West regional delivery requirements are intended to induce the development of processing in the region, when such development is feasible, removal of the exemption would be inappropriate. Although this alternative would have removed the burden of the West regional delivery requirements from small entities holding QS, PQS, IFQ, and IPQ, the alternative would have removed any regulatory inducement to process in the West region. The potential future benefit of those requirements would therefore be denied to the communities of Adak and Atka. Although the exemption created by the preferred alternative could reduce the potential for the development of processing capacity in

Adak and Atka, it will provide these two small entities with the ability to withhold consent, as a means of inducing PQS and IPQ holders to develop processing capacity in the West region.

Compared with the status quo, the preferred alternative, and the associated suite of options composing the preferred alternative, best minimizes adverse economic impacts on small entities, while providing the most benefits to the directly regulated small entities. The action provides greater economic benefits for participants in the WAG fishery by providing additional processing opportunities when processing capacity is not available in the West region. The Council chose to recommend the preferred alternative because this action best meets the goals of this action. This action minimizes the potential negative impacts to small entities directly, such as unharvested TAC, when compared to the other options, while promoting stability in a region that has traditionally benefited from the regional delivery requirements.

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, the Small Entity Compliance Guide includes the preambles to the proposed and final rules, and is included in the BSAI Crab Rationalization frequently asked questions, which may be obtained from the Alaska Region Web site at <http://alaskafisheries.noaa.gov/sustainablefisheries/crab/rat/progfaq.htm>. Copies of the proposed rule, and final rule also are available upon request from the Alaska Regional Office (See **ADDRESSES**).

#### *Collection-of-Information*

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act and which has been approved by Office of Management and Budget (OMB) under Control Number 0648-0514. Public reporting burden per response is estimated to average 2 hours for the Application for Annual Exemption from the Western Aleutian Islands Golden King Crab West Regional Delivery

Requirements, and 4 hours for the appeal letter if the application is denied, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**), by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to 202-395-7285. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act, unless that collection-of-information displays a currently valid OMB control number.

#### **List of Subjects in 50 CFR Part 680**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 15, 2011.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 680 is amended as follows:

#### **PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

**Authority:** 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

■ 2. In § 680.4, add paragraph (o) to read as follows:

##### **§ 680.4 Permits.**

\* \* \* \* \*

(o) *Exemption from Western Aleutian Islands golden king crab West regional delivery requirements*—(1) *Request for an Annual Exemption from Western Aleutian Islands golden king crab West regional delivery requirements.* The eligible contract signatories (see qualifications at § 680.4(o)(2)(i)) may submit an application to NMFS to request that NMFS exempt West designated IFQ and West designated IPQ for the Western Aleutian Islands golden king crab (WAG) fishery from the West regional delivery requirements at § 680.7(a)(2) and (a)(4). All eligible contract signatories must submit one completed copy of the application form. The application must be submitted to NMFS using one of the following methods:

(i) *Mail:* Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; or

(ii) *Fax:* 907-586-7354; or

(iii) *Hand delivery or carrier:* NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Application form.* The application form is available on the NMFS Alaska region Web site (<http://alaskafisheries.noaa.gov>) or from NMFS at the address in paragraph (o)(1)(i) of this section. All information fields on the application form must be accurately completed, including—

(i) *Identification of eligible contract signatories.* Full name of each eligible contract signatory; NMFS person ID; and appropriate information that documents the signatories meet the requirements. If the application is completed by an individual who is the authorized representative, then documentation demonstrating the authorization must accompany the application. Eligible contract signatories are—

(A) *QS holders:* Any person that holds in excess of 20 percent of the West designated WAG QS at the time the contract was signed, or their authorized representative.

(B) *PQS holders:* Any person that holds in excess of 20 percent of the West designated WAG PQS at the time the contract was signed, or their authorized representative.

(C) *Municipalities:* designated officials from both the City of Adak and the City of Atka or an authorized representative.

(ii) *Affidavit affirming master contract has been signed.* Each eligible contract signatory, as described in paragraph (o)(2)(i) of this section, must sign and date an Affidavit affirming that a master contract has been signed to authorize the completion of the application to request that NMFS exempt West designated IFQ and West designated IPQ for the WAG fishery from the West regional delivery requirements. The eligible contract signatories must affirm on the Affidavit that all information is true, correct, and complete to the best of his or her knowledge and belief.

(3) *Effective date.* A completed application must be approved by NMFS before any person may use WAG IFQ or IPQ with a West regional designation outside of the West region during a crab fishing year. If approved, the effective date of the exemption is the date the application was approved by NMFS. Any delivery of WAG IFQ or IPQ with a West regional designation outside of the West region prior to the effective date of the exemption is prohibited under § 680.7(a)(2) and (a)(4).

(4) *Duration.* An exemption from West regional delivery requirements is only valid for the remainder of the crab fishing year during which the application was approved by NMFS. The exemption expires at the end of the crab fishing year (June 30).

(5) *Approval*—(i) NMFS will approve a completed application for the exemption from Western Aleutian Islands golden king crab West regional delivery requirements if all eligible contract signatories meet the requirements specified in paragraph (o)(2)(i) of this section.

(ii) The Regional Administrator will not consider an application to have been received if the applicant cannot provide

objective written evidence that NMFS Alaska Region received it.

(iii) NMFS approval of an annual exemption from the Western Aleutian Islands golden king crab West regional delivery requirements will be made publicly available at the NMFS Web site at <http://alaskafisheries.noaa.gov>.

■ 2. In § 680.7, revise paragraphs (a)(2) and (a)(4) to read as follows:

**§ 680.7 Prohibitions**

\* \* \* \*

(a) \* \* \*

(2) Receive CR crab harvested under an IFQ permit in any region other than the region for which the IFQ permit is

designated, unless deliveries of West designated WAG IFQ are received pursuant to a NMFS-approved exemption from the regional delivery requirements, as described under § 680.4(o).

\* \* \* \*

(4) Use IPQ in any region other than the region for which the IPQ is designated, unless West designated WAG IPQ is used pursuant to a NMFS-approved exemption from the regional delivery requirements, as described under § 680.4(o).

\* \* \* \*

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