

## **SUPPORTING STATEMENT**

### **NMFS ALASKA REGION BERING SEA & ALEUTIAN ISLANDS CRAB PERMITS**

**OMB CONTROL NO. 0648-0514**

#### **INTRODUCTION**

National Marine Fisheries Service (NMFS) manages the United States (U.S.) crab fisheries under the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson- Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, as amended in 2006 (Magnuson-Stevens Act). Regulations implementing the FMP appear at 50 CFR part 680.

Amendment 37 to the FMP would amend the Bering Sea/Aleutian Islands Crab Rationalization Program (CR Program) by establishing a process for specified fishery participants to notify NMFS when the Western Aleutian Islands golden king crab (*Lithodes aequispinus*) (WAG) fishery deliveries needs to be exempt from the West regional designation. Federal regulations at §680.7 require golden king crab harvested with individual fishing quota (IFQ) with a West regional designation to be delivered to a processor with West designated individual processor quota (IPQ) in the West region of the Aleutian Islands. However, reliable shoreside processing capacity is not always available each season. Amendment 37 is necessary to prevent disruption to the Western Aleutian Islands golden king crab fishery, while providing for the sustained participation of communities in the region.

NMFS would exempt West designated IFQ holders and IPQ holders from the prohibitions against receiving or using WAG IFQ and IPQ outside of the West region at § 680.7(a)(2) and (a)(4). By removing only the delivery requirements, this action maintains the West region delivery requirement in all years unless an application is agreed upon by specified participants and approved by NMFS.

This action is a revision to an existing collection. This action would accommodate an exemption from existing CR Program regional delivery and processing requirements in the Western Aleutian Islands golden king crab fishery and would support a rule (RIN 0648-BA11).

## A. JUSTIFICATION

### 1. Explain the circumstances that make the collection of information necessary.

At its April 2010 meeting, the Council adopted Amendment 37 to the FMP. Amendment 37 permanently addresses the lack of reliable processing capacity in the West region by establishing a process for QS holders, PQS holders, and the municipalities of Adak and Atka to request that NMFS exempt the WAG fishery from the West regional delivery requirement. Amendment 37 establishes a means to enhance stability in the fishery, while continuing to promote the sustained participation of the communities intended to benefit from the West region landing requirement.

### 2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

#### a. WAG exemption application

Amendment 37 to the FMP would establish in regulation provisions for specified participants to apply for an exemption to the West region delivery requirement that WAG be processed west of 174° W. long. Under this action, eligible participants would contractually agree to complete an application to NMFS requesting an exemption from the West region landing requirement. Upon receipt and approval of a completed application, NMFS would exempt all West designated Class A IFQ from the West region delivery requirements. Such an exemption would enable all West designated quota share (QS) and processor quota share (PQS) holders to deliver WAG to processing facilities outside of the West region. This exemption would promote the full utilization the total allowable catch (TAC) when processing capacity is not available.

The action applies to participants in, and communities affected by, the WAG fishery. The fishery is a relatively small but lengthy fishery accomplished in extremely remote waters. This action requires the unanimous approval of all designated signatories to exempt the WAG Class A IFQ from the West region delivery requirements. NMFS would grant an exemption to the regional delivery requirement, if all specified parties submit a completed application including an affidavit affirming that all designated signatories signed a master contract.

Amendment 37 would limit the QS holders, PQS holders, and municipalities necessary to apply for an exemption from the West region landing requirements. The Council defined the parties necessary to request an exemption as

- ◆ Any person or company that holds in excess of 20 percent of the West designated WAG QS
- ◆ Any person or company that holds in excess of 20 percent of the West designated WAG PQS
- ◆ The municipalities of Adak and Atka.

Participants holding 20 percent or less of either share type would have no direct input into whether the exemption could be accessed. In selecting the designated signatories, the Council sought to limit participants to those stakeholders that best meet the intent of this proposed action. By limiting the number of parties to those substantially invested in the fishery, this proposed action enables fishery participants to respond quickly to a lack of in-region processing capacity. The participation criteria recommended by the Council are intended to balance the interest of WAG fishery QS and PQS holders with the communities intended to benefit from the West region landing requirement.

Due to the complexities associated with responding quickly to unforeseen disruption of processing capacity and the remote nature of the fishery, it may be necessary for authorized representatives to sign for the person, company, or municipality designated in proposed regulations as an Eligible Contract Signatory at § 680.4(o)(2)(i). For the Cities of Adak and Atka the Mayor or City Clerk would probably sign on behalf of the City; however, another authorized representative could sign on behalf of the City as long as documentation of that authority is demonstrated on the application. Similarly, all authorized representatives must clearly identify the eligible contract signatories they are signing on behalf of on the application and attach documentation supporting that authority.

The applicants must provide information describing how eligible contract signatories meet the requirements and that all eligible signatories are included on the application. All eligible signatories, or their authorized representatives, must 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 and belief.

Participation in any application to exempt IFQ and IPQ from the West region delivery requirement is voluntary, but is necessary to utilize fully the TAC in seasons when in-region processing facilities cannot meet the capacity requirements of the fishery.

The proposed recordkeeping and reporting requirements are expected to be minimal because all eligible signatories must work together to apply, thereby sharing the cost of developing and submitting an application. The time and cost involved in developing and submitting an application would be less per eligible signatory than it would be if each signatory developed an application individually.

Upon receiving a completed application through one of the approved methods, NMFS will process that application within 10 calendar days. Once received by NMFS, the approval process would include verification that—

- ◆ Each signatory to the affidavit meets the required criteria proposed at § 680.4(o)(2)(i).
- ◆ All eligible participants provided written support for the exemption.
- ◆ All application fields are accurately filled in.

NMFS will not approve applications not meeting these requirements. This program is designed to be flexible and contains no deadlines for submission or limits on the number of times applications could be submitted to NMFS. Therefore, if denied, eligible contract signatories could reapply at any time during a crab fishing year.

To expedite an exemption from the delivery requirements, NMFS would establish the effective date of the exemption as the date the completed application was received by NMFS (see § 680.4(o)(3)). Upon approval of an application, the effective date would be applied retroactively to the date the application was received to NMFS. Due to the remote geographic location of the WAG fishery, it may be necessary for IFQ and IPQ holders to arrange alternative deliveries and payments with processing facilities east of 174° W. long. prior to the approval date. The establishment in regulation of a retroactively effective date would allow stakeholders to prosecute the fishery with minimal disruption.

An exemption from West region delivery requirements is valid only for the remainder of the crab fishing year during which the application was received by and approved by NMFS.

The application is available on the NMFS Alaska region website at <http://alaskafisheries.noaa.gov>. The application must be submitted to NMFS using one of the following methods:

By mail: Alaska Regional Administrator, NMFS  
c/o Restricted Access Management Program  
P.O. Box 21668  
Juneau, AK 99802-1668

By fax: 907-586-7354

Or by hand delivery or carrier:  
NMFS, Room 713  
709 West 9th Street  
Juneau, AK 99801

The necessary signatories to apply for an exemption are limited to QS and PSQ holders owning more than 20 percent of the West designated WAG and the two communities. The exemption, if approved, would apply to all QS and PSQ holders. However, the ownership percentages can shift from year to year, so NMFS estimates there are 20 possible eligible signatories but only up to 10 at any one time.

<b>WAG exemption application, Respondent</b>	
<b>Estimated number of respondents</b> 4 QS holders, 4 PSQ holders, and 2 municipalities	<b>10</b>
<b>Total annual responses</b> 1 response per year	<b>10</b>
<b>Total burden hours @ 2 hr</b>	<b>20 hr</b>
<b>Total personnel cost @ \$25/hr</b>	<b>\$500</b>
<b>Total miscellaneous cost (44.26)</b> Mail (0.88 x 2 = 1.76) Fax \$5 x 8 = \$40 Photocopy (5 pages x 0.05 x 10 = 2.50)	<b>\$44</b>

<b>WAG exemption application Federal Government</b>	
<b>Total annual responses</b>	<b>10</b>
<b>Total burden hours @ 1 hr</b>	<b>10 hr</b>
<b>Total personnel cost @ \$25</b>	<b>\$250</b>
<b>Total miscellaneous costs</b>	<b>0</b>

**b. Appeal**

The evaluation of an application for an annual exemption would require a decision-making process that would be subject to administrative appeal. Applications that do not meet the requirements will not be approved; and NMFS would issue an initial administrative determination (IAD) to indicate the deficiencies and discrepancies in the information or the evidence submitted in support of the application. NMFS’s IAD would indicate the claims not approved based on the available information or evidence and would provide information on how an applicant could appeal an IAD. The appeals process is described under § 679.43.

If a WAG exemption application is denied, eligible contract signatories could reapply at any time during a crab fishing year. NMFS designed this program to be flexible. No deadlines exist for submission or limits on the number of times applications could be submitted to NMFS.

Appeals to denial of applications are already part of this collection. No addition or revision is necessary to this item, because the number of potential appeals provided earlier is still valid.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The application may be completed on the computer screen by the participant, downloaded, printed, and faxed or mailed. NMFS is pursuing an Internet method in the future whereby all of the information will be entered online and submitted directly and automatically into a database.

**4. Describe efforts to identify duplication.**

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

This action directly regulates 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. Based on 2009/2010 records, the WAG fishery has

- ◆ 15 QS holders, of which 14 are estimated to be small entities.
- ◆ Three West region IFQ holders, two of which are small entities.
- ◆ Seven West region PQS holders, of which four are small entities.
- ◆ Six holders of West region IPQ, three of which are small entities.

Both the communities of Adak and Atka qualify as small entities, as neither has more than 50,000 residents.

This collection of information does not impose a significant impact on small entities.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The CR Program established regional designations for crab QS and PQS for most crab fisheries, and the associated IFQ and IPQ to ensure that communities 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 communities. To accomplish this, the CR Program imposes regional delivery requirements to specific geographic regions based on historic geographic delivery and processing patterns. The WAG fishery is subject to regional delivery requirements.

In some years, it may not be possible for fishery participants to predict the availability of West region processing capacity. Therefore, this proposed action provides the flexibility necessary for designated parties to request an exemption at any point prior to or during a crab fishing year in order to fully utilize the TAC in a given year.

If this exemption were not available, the entire West region TAC may be left unharvested.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

No special circumstances exist.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

NMFS Alaska Region will submit a proposed rule (RIN 0648-BA11) coincident with this submission, requesting comments from the public.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payment or gift will be provided under this program.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

The information collected is confidential under section 303(d) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and under NOAA Administrative Order (AO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

This information collection does not involve information of a sensitive nature.

**12. Provide an estimate in hours of the burden of the collection of information.**

Estimated total respondents: 1,920. Estimated total responses: 2,912, up from 2,902. Estimated total burden: 4,472, up from 4,452 hr. Estimated total personnel costs: \$113,050, up from \$112,550.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).**

Estimated total miscellaneous costs: \$12,425, up from \$12,381.

**14. Provide estimates of annualized cost to the Federal government.**

Estimated total responses: 2,686, up from 2,676. Estimated total burden: 791 hr, up from

781 hr. Estimated total personnel costs: \$21,765, up from \$21,514.

**15. Explain the reasons for any program changes or adjustments.**

This revision describes a program change. Amendment 37 to the FMP would establish provisions in 50 CFR part 680 for up to ten annual, specified participants in the Western Aleutian Islands golden king crab fishery to apply for an exemption to the West region delivery requirement.

There are no changes to any of the other requirements in this information collection.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

The results of this collection of information will not be published. Lists of permits by permit holder are posted on the Alaska Region Web Page.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Not applicable.

**18. Explain each exception to the certification statement.**

Not applicable.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.