INITIAL REVIEW DRAFT

Regulatory Impact Review/ Initial Regulatory Flexibility Analysis for Proposed Regulatory Amendment

Western Aleutian Islands Golden King Crab Full Offload Delivery Exemption

June 2015

For further information contact: Sarah Marrinan, North Pacific Fishery Management Council
605 W 4th Ave, Suite 306, Anchorage, AK 99501
(907) 271-2809

Abstract: This Regulatory Impact Review/Initial Regulatory Flexibility Analysis examines proposed management measures that would apply exclusively to the Western Aleutian Island golden king crab (*Lithodes aequispinus*) fishery. The measures under consideration would create an exemption to the prohibition against continuing to fish in a Bering Sea/ Aleutian Islands Crab Rationalization Program fishery once off-loading has commenced and until all crab rationalization program crab are landed.

List of Acronyms and Abbreviations

‘	feet
AAC	Alaska Administrative Code
ABC	acceptable biological catch
ADF&G	Alaska Department of Fish and Game
AEQ	adult equivalent
AFA	American Fisheries Act
AFSC	Alaska Fisheries Science Center
AGDB	Alaska Groundfish Data Bank
AKFIN	Alaska Fisheries Information Network
ANILCA	Alaska National Interest Lands Conservation Act
BASIS	Bering Sea-Aleutian Salmon International Survey
BEG	biological escapement goal
BOF	Board of Fish
BSAI	Bering Sea and Aleutian Islands
CAS	Catch Accounting System
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
COAR	Commercial Operators Annual Report
Council	North Pacific Fishery Management Council
CP	catcher/processor
CV	catcher vessel
CWT	coded-wire tag
DPS	distinct population segment
E	East
E.O.	Executive Order
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EFH	essential fish habitat
EIS	Environmental Impact Statement
ESA	Endangered Species Act
ESU	endangered species unit
FMA	Fisheries Monitoring and Analysis
FMP	fishery management plan
FONSI	Finding of No Significant Impact
FR	*Federal Register*
FRFA	Final Regulatory Flexibility Analysis
ft	foot or feet
GHL	guideline harvest level
GOA	Gulf of Alaska
ID	Identification
IRFA	Initial Regulatory Flexibility Analysis
IPA	Incentive Plan Agreement
IQF	individually quick frozen
JAM	jeopardy or adverse modification
lb(s)	pound(s)
LEI	long-term effect index
LLP	license limitation program
LOA	length overall
m	meter or meters

Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MMPA	Marine Mammal Protection Act
MSST	minimum stock size threshold
mt	metric ton
NAO	NOAA Administrative Order
NEPA	National Environmental Policy Act
NMFS	National Marine Fishery Service
NOAA	National Oceanographic and Atmospheric Administration
NPAFC	North Pacific Anadromous Fish Commission
NPFMC	North Pacific Fishery Management Council
NPPSD	North Pacific Pelagic Seabird Database
Observer Program	North Pacific Groundfish Observer Program
OEG	optimal escapement goal
OMB	Office of Management and Budget
PBR	potential biological removal
PSC	prohibited species catch
PPA	Preliminary preferred alternative
PRA	Paperwork Reduction Act
PSEIS	Programmatic Supplemental Environmental Impact Statement
PWS	Prince William Sound
RFA	Regulatory Flexibility Act
RFFA	reasonably foreseeable future action
RIR	Regulatory Impact Review
RPA	reasonable and prudent alternative
RSW	refrigerated seawater
SAFE	Stock Assessment and Fishery Evaluation
SAR	stock assessment report
SBA	Small Business Act
Secretary	Secretary of Commerce
SEG	sustainable escapement goal
SET	sustainable escapement threshold
SNP	single nucleotide polymorphism
SPLASH	Structure of Populations, Levels of Abundance, and Status of Humpbacks
SRKW	Southern Resident killer whales
SSFP	Sustainable Salmon Fisheries Policy
SW	southwest
TAC	total allowable catch
U.S.	United States
USCG	United States Coast Guard
USFWS	United States Fish and Wildlife Service
VMS	vessel monitoring system
W	West

Table of Contents

2 INTRODUCTION 5

2.1 Purpose and Need 5
2.2 History of this Action 6
2.3 Description of Action Area 6

3 DESCRIPTION OF ALTERNATIVES 7

3.1 Alternative 1, No Action 7
3.2 Alternative 2, Exemption to Full Delivery Requirements 7
3.3 Alternatives Considered but not Analyzed Further 7

4 REGULATORY IMPACT REVIEW 8

4.1 Statutory Authority 8
4.2 Purpose and Need for Action 9
4.3 Alternatives 9
4.4 Methodology for analysis of impacts 10
4.5 The Western Aleutian Islands Golden King Crab Fishery 10
4.5.1 The Historical LLP Fishery 10
4.5.2 The Fishery Under the Rationalization Program 11
4.5.3 Harvesting Operations 16
4.5.4 Processing Operation 17
4.5.5 AI Communities 17
4.5.5.1 Adak 17
4.5.5.2 Atka 18
4.6 Analysis of Impacts: Alternative 1, No Action 22
4.6.1 State Management Under the No Action Alternative 22
4.6.1.1 Observer Coverage, Dockside Sampling and Sampling Procedures 22
4.6.1.2 Reporting Requirements (Observers and Dockside Samplers) 23
4.6.1.3 At-Sea Sampling (Observers Only) 23
4.6.1.4 Retained Catch Sampling (Observers and Dockside Samplers) 24
4.7 Analysis of Impacts: Alternative 2, Exemption to Full Offload Delivery Requirements 24
4.7.1 Impacts on Harvesters 24
4.7.2 Impacts on Processors and Communities 25
4.7.3 Impacts on Safety 26
4.7.4 Impacts on Federal Management Measures 26
4.7.5 State Management Impacts and Recommendations 26
4.7.6 Enforcement Impacts and Recommendations 27
4.8 Summation of the Alternatives with Respect to Net Benefit to the Nation 28

5 INITIAL REGULATORY FLEXIBILITY ANALYSIS 29

5.1 Introduction 29
5.2 IRFA Requirements 29
5.3 Definition of a Small Entity 30
5.4 Reason for Considering the Proposed Action 31
5.5 Objectives of Proposed Action and its Legal Basis 32
5.6 Number and Description of Directly Regulated Small Entities 32
5.7 Recordkeeping and Reporting Requirements 33
5.8 Federal Rules that may Duplicate, Overlap, or Conflict with Proposed Action 33
5.9 Description of Significant Alternatives to the Proposed Action that Minimize Economic Impacts on Small Entities 33

6 PREPARERS AND PERSONS CONSULTED 34

7 REFERENCES 35

APPENDICES 36

List of Tables

Table 3-1 TACs, catch, and participation by operation type in the Western Aleutian Islands golden king crab fishery (2000/1 through 2013/14 seasons) 11

Table 3-2 Season opening and closing in the Western Aleutian Islands golden king crab fishery (2001/2 through 2004/5 seasons) 11

Table 3-3 Quota share holdings by share type, region, and operation type in the Western Aleutian Islands golden king crab fishery (2013/2014) 13

Table 3-4 Processor quota share holdings by region in the Western Aleutian Islands golden king crab fishery (2013/2014) 13

Table 3-5 Pot usage and catches in the Western Aleutian Islands golden king crab fishery (2000/1 through 2013/14) 14

Table 3-6 Seasons and deliveries in the Western Aleutian Islands golden king crab fishery (2005/6 through 2013/14) 15

Table 3-7 Active catcher vessels and number of landings for West region and undesignated IFQ (2005/6 through 2013/14) 15

Table 3-8 Estimated golden king crab ex vessel prices and first wholesale prices (crab sections), 2001 through 2014 (dollars/pound) 16

Table 3-9 Number of vessels delivering and amount (mt) by fishery to Adak and Atka shoreside processors from 2003 through 2013 20

List of Figures

Figure 1-1 Aleutian Islands, Area O, king crab management area 6

1 Introduction

This document analyzes proposed management measures that would apply exclusively to the Western Aleutian Island golden king crab (WAG) (*Lithodes aequispinus*) fishery. The measures under consideration include allowing for an exemption from the prohibition against continuing to fish in a Bering Sea/ Aleutian Island (BSAI) crab rationalization (CR) program fishery once off-loading has commenced and until all CR crab are landed. This document is a Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA).[1] An RIR/IRFA provides assessments of the economic benefits and costs of the action alternatives, as well as their distribution (the RIR), and the impacts of the action on directly regulated small entities (the IRFA). This RIR/IRFA addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson Stevens Act), the National Environmental Policy Act (NEPA), Presidential Executive Order 12866, and the Regulatory Flexibility Act. An RIR/IRFA is a standard document produced by the North Pacific Fishery Management Council (Council) and the National Marine Fisheries Service (NMFS) Alaska Region to provide the analytical background for decision-making.

1.1 Purpose and Need

The Council has not yet formally identified a purpose and need or problem statement for this action. However, it supported further analysis of the issue, acknowledging the interests of stakeholders. The purpose and need for this action, as expressed through public testimony and Council discussion, is summarized below.

The purpose of this action would be to create an exemption for WAG from the regulations that prohibit the continuation of a fishing trip subsequent to a partial offload of crab in the crab program (Appendix 1). This regulatory exemption would allow vessels prosecuting the WAG fishery to make partial deliveries of crab and then continue fishing before fully offloading all harvested crab. Specifically, it would allow vessels harvesting WAG to deliver partial loads of live crab to Adak opportunistically; when the markets and the commercial airline are available. While the processing plant in Adak does not currently have the capacity to accept and process a full offload from the catcher vessels (CVs) prosecuting this fishery, the processor can accept small deliveries of live crab to be packed and shipped by the commercial airline. Relaxing the full offload regulation for this specific fishery could allow vessels a better opportunity to supply a small delivery of WAG to Adak without compromising the economic viability of the whole fishing trip for the harvester. It would permit vessels harvesting WAG to do partial deliveries and continue harvesting crab before fully offloading at a processor that could accommodate the full volume of crab onboard these CVs.

This action was specifically identified for the WAG fishery due to 1) the remote and economically challenging characteristic of the fishery, 2) the possibility of mutual benefits to harvesters, the local processor, and the community, and 3) consistency with previous Council action that intended to encourage entrepreneurial activity related to fisheries in the Western Aleutian Islands. Beginning in 2011/2012, regulations began allowing for an exemption from the West-designated delivery requirement for WAG due to the lack of processing availability in this region. The intent of this designation was to induce the development of processing in the region, when such development is feasible. Although regional delivery exemptions may still be necessary, this action is consistent with the original intent to

[1] The proposed action is a minor change to a previously analyzed and approved action and the proposed change has no effect individually or cumulatively on the human environment (as defined in NAO 216-6). The effects of the action are economic in nature, and require primarily management and enforcement consideration. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

facilitate local crab processing. The Council is considering regulatory flexibility in order to provide opportunity for market expansion potentially benefiting harvesters, the city of Adak, and the consuming public.

1.2 History of this Action

In February 2015, the Council heard public testimony and received several comment letters from crab industry representative and representatives of Adak seeking an exemption from a prohibition in the Federal regulations for crab rationalization fisheries (Appendix 1). In staff tasking at the February meeting, the Council initiated an analysis on this issue.

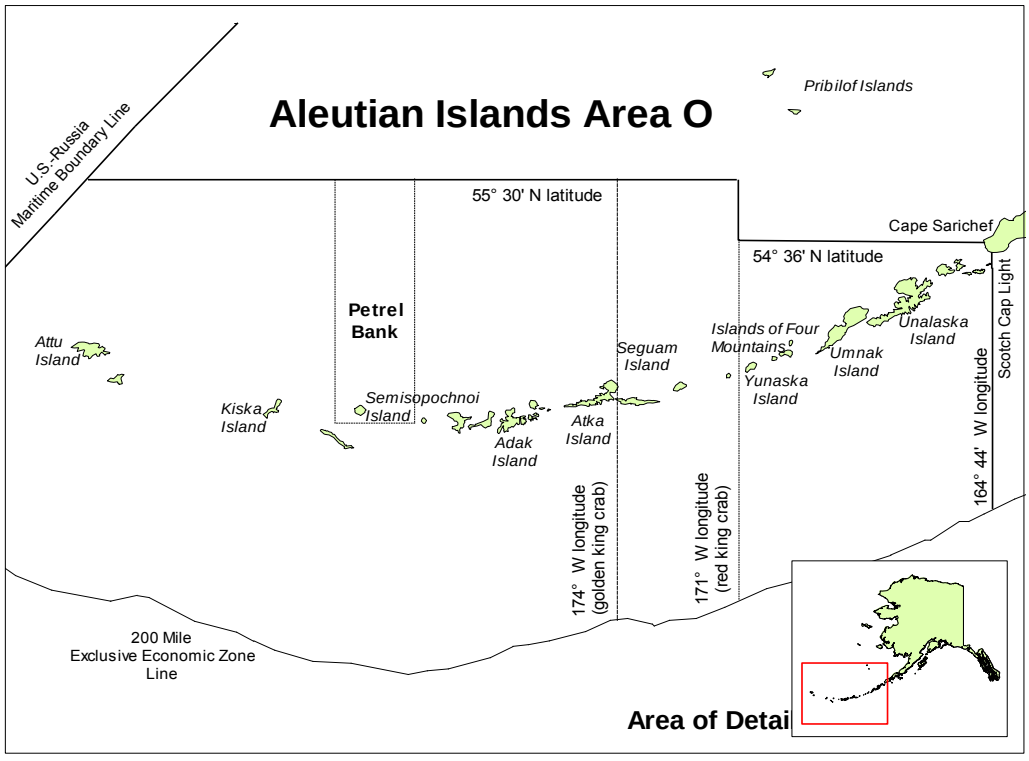
1.3 Description of Action Area

Based on the proposal put forth by the industry, this exemption would only apply to the apportionment of the Aleutian Island golden king crab (AIGKC) stock in the Western management region (WAG). The AIGKC stock falls into Area O State of Alaska management area as described in Baechler and Cook (2014, page 7):

> Area O has as its eastern boundary the longitude of Scotch Cap Light (164º 44' W long.), its northern boundary a line from Cape Sarichef (54º 36' N lat.) to 171º W long., north to 55º 30' N lat., and as its western boundary the Maritime Boundary Agreement Line between the U.S and Russia. Area O encompasses both the waters of the Territorial Sea (0–3 nautical miles) and waters of the Exclusive Economic Zone (3–200 nautical miles).

The total allowable catch (TAC) is apportioned east and west of 174º W longitude as can be identified in Figure 1-1. Action in this analysis only applies to the WAG fishery, which is west of 174º W longitude.

Figure 1-1 Aleutian Islands, Area O, king crab management area



2 Description of Alternatives

The Council has not yet formally identified alternatives for action. However, based on public testimony and subsequent Council discussion, the action considered by the Council could be relatively straight-forward:

Alternative 1: No action. Status quo is maintained. Vessels are prohibited from resuming fishing for CR crab on board a vessel once a landing has commenced and until all CR crab are landed.

Alternative 2: Create an exemption from the prohibition from resuming fishing for CR crab on board a vessel once a landing has commenced and until all CR crab are landed for vessels harvesting WAG.

2.1 Alternative 1, No Action

Alternative 1 would maintain the regulation currently laid out in 50 CFR 680.7, which states:

> *In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:*
> *…*
> *(b) Landing CR crab*
> *…*
> *(3) Resume fishing for CR crab or take CR crab on board a vessel once a landing has commenced and until all CR crab are landed.*

In other words, once a vessel begins to land a crab species that is part of the CR program, they may not harvest more crab associated with the program with that vessel until all crab have been completely off-loaded from the vessel.

Regulations do not prohibit partial offloads of CR crab at multiple locations. Therefore, small deliveries to a plant, such as in Adak, may occur under the current regulatory regime. The primary distinction is that these vessels would not be permitted to *continue to fish* until the remainder of the crab on the vessel is off-loaded as well. Under the no action Alternative 1, fleet fishing behavior would be expected to remain consistent with the status quo.

2.2 Alternative 2, Exemption to Full Delivery Requirements

The action alternative would allow crab harvesters the option of landing a partial load of WAG and resuming fishing for WAG. This alternative would directly affect a small scope of participants. In recent years there have been two CVs participating in this fishery (See Section 3.5.2). Section 3.5.2 discusses the original intent of this regulation and Section 3.6.1 discusses additional considerations for management and enforcement under Alternative 2.

Creating this exemption would require a Federal regulatory amendment. It would not require an FMP amendment and it is not expected to require State regulation changes.

2.3 Alternatives Considered but not Analyzed Further

The Council has not considered any other alternatives or options to address the problem identified by stakeholders at this point.

3 Regulatory Impact Review

This Regulatory Impact Review (RIR)[2] examines the benefits and costs of a proposed regulatory amendment to allow for an exemption in the WAG fishery from the prohibition against continuing to fish in a Bering Sea/ Aleutian Islands (BSAI) Crab Rationalization (CR) Program fishery once off-loading has commenced and until all Crab Program crab are landed. This chapter includes a description of the current WAG fishery, an analysis of the potential effects of the proposed action, and management and enforcement components important to consider under the proposed action alternative.

The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735: October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following Statement from the E.O.:

> *In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and Benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.*

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

3.1 Statutory Authority

Under the Magnuson-Stevens Fishery and Conservation Act (Magnuson-Stevens Act) (16 USC 1801, *et seq*.), the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone (EEZ). The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the Council has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the federal mandates of the Department of Commerce with regard to marine and anadromous fish.

[2] The proposed action has no potential to effect individually or cumulatively on the human environment (as defined in NAO 216-6). The only effects of the action are economic, as analyzed in this RIR/IRFA. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

The WAG fishery in the EEZ off Alaska is managed under the FMP for Bering Sea/ Aleutian Island King and Tanner Crabs. The proposed action under consideration would *not* amend this FMP; however, it would amend Federal regulations at 50 CFR 680. Actions taken to amend regulations governing these fisheries must meet the requirements of Federal law and regulations.

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3.3 Alternatives

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Alternative 2: Create an exemption from the prohibition from resuming fishing for CR crab on board a vessel once a landing has commenced and until all CR crab are landed for vessels harvesting WAG.

3.4 Methodology for analysis of impacts

The evaluation of impacts in this analysis is designed to meet the requirement of E.O. 12866, which dictates that an RIR evaluate the costs and benefits of the alternatives, to include both quantifiable and qualitative considerations. Additionally, the analysis should provide information for decision makers "to maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach." The costs and benefits of this action with respect to these attributes are described in the sections that follow, comparing the No Action Alternative 1 with the action alternatives. The analyst then provides a qualitative assessment of the net benefit to the Nation of each alternative, compared to no action.

This analysis was prepared using data from the ADF&G fish tickets, information from Commercial Operators Annual Reports (COAR) containing production data self-reported annually, and reports from Restricted Access Management (RAM) on quota share holdings. Information from these sources represents the best available information for describing the WAG fishery and participants.

3.5 The Western Aleutian Islands Golden King Crab Fishery

This section provides relevant information on the WAG fishery. It begins with a discussion of the historical pre-rationalization management through the License Limitation Program (LLP) fishery. Nest this section highlights relevant elements of the CR program and statistical information on current activity in the fishery. Much of this information is confidential due to the limited number of both harvesters and processor that have participated in the recent past. The section concludes with a description of the communities directly impacted by the proposed action.

3.5.1 The Historical LLP Fishery

Prior to implementation of the rationalization program on April 1, 2006, the BSAI crab fisheries were managed under the License Limitation Program (LLP). Under that program, 28 licenses carried endorsements authorizing participants in the AIGKC crab fisheries (including both the Eastern and 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 TACs, catch, and participation by operation type in the Western Aleutian Islands golden king crab fishery (2000/1 through 2013/14 seasons)Table 3-1). Pots used to fish for golden king crab in the Aleutian Islands area must be operated from a shellfish longline and not all vessels are configured to accommodate this type of operation. That, along with the fishery's small TAC and distant and relatively limited grounds are believed to have been a deterrent to entry to those qualified under the LLP. Since implementation of crab rationalization, the fishery has, in most years, consisted of two active CVs. Historically, there was also one active catcher processor (CP), which has recently been converted to a CV (Linda Kozak, 5/4/2015, personal communications) and moved out of this fishery. With the exception of 2006/2007 through 2008/2009 seasons, nearly 100 percent of the TAC has been harvested, primary by these few vessels.

Table 3-1 TACs, catch, and participation by operation type in the Western Aleutian Islands golden king crab fishery (2000/1 through 2013/14 seasons)

Season	TAC (lbs)	Catch (lbs)	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	2,430,000	2,384,568	98.1	2	1	3
2006-2007	2,430,000	1,984,089	81.6	2	1	3
2007-2008	2,430,000	2,183,936	89.9	2	1	3
2008-2009	2,551,500	2,252,119	88.3	2	1	3
2009-2010	2,551,500	2,385,570	93.5	2	1	3
2010-2011	2,551,500	2,537,163	99.4	2	1	3
2011-2012	2,551,500	2,536,749	99.4	2	1	3
2012-2013	2,682,000	2,654,648	99.0	3	1	4
2013-2014	2,682,000	2,672,524	99.6	3	0	3

Source: AKFIN, April 27, 2015

Table orginates from WAG_Data(04-27)-1 and AI Golden King Crab Tables

Despite relatively low participation levels in the years leading up to implementation of the CR program, the fishery did exhibit signs of increased effort. As seen from Table 3-2, the seasons progressively shortened during the four years leading up to implementation of the rationalization program.

Table 3-2 Season opening and closing in the Western Aleutian Islands golden king crab fishery (2001/2 through 2004/5 seasons)

Season	Season opening	Season closing
2001-2002	August 15	March 30
2002-2003		March 8
2003-2004		February 6
2004-2005		January 3

Source: ADFG Annual Management Report

Table orginates from AI Golden King Crab Tables

3.5.2 The Fishery Under the Rationalization Program

In August of 2005, fishing in the BSAI crab fisheries began under a new share-based management program (the crab rationalization or CR program). The CR program rationalizes the large crab fisheries in the BSAI, specifically the following nine:

1. Bristol Bay red king crab
2. Bering Sea C. opilio (snow crab)
3. Eastern Bering Sea C. bairdi (Tanner crab) – East of 166º W
4. Western Bering Sea C. bairdi (Tanner crab) – West of 166º W

5. Pribilof Island blue and red king crab
6. St. Matthew Island blue king crab
7. **Western Aleutian Islands (Adak) golden king crab – West of 174º W**
8. Eastern Aleutian Islands (Dutch Harbor) golden king crab – East of 174º W
9. Western Aleutian Islands (Adak) red king crab – West of 174º W

Among the many unique program elements and corresponding regulations established upon CR program implementation, a regulation requiring vessels to fully offload all CR crab before resuming fishing was also established (see 70 FR 10174). This regulation was intended to address concerns leading up to the CR program, that undesirable crab (e.g. overages, deadloss, or barnacled crab) could be discarded at sea without being accounted for. This regulation primarily addressed an enforcement issue, but also had the effect of simplifying port sampling and catch accounting. Experience with the CR program has shown that vessels are unlikely to discard undesirable crab at sea due to factors such as the requirement for all vessels harvesting CR crab to use a vessel monitoring unit (VMS), port samplers, and the infeasibility of discarding large amounts of crab from a tank at sea.

Background information on the quota shareholders, on both the harvesting and processing side that could be impacted by action, is also important for this potential action. Under the CR program, holders of LLP licenses endorsed for a fishery were issued vessel owner quota shares (QS), which are long term access privileges, based on their qualifying harvest histories in that fishery. CP license holders were allocated CP vessel owner QS for their history as CP. CV license holders were issued CV QS based on their history as a CV. QS annually yields individual fishing quota (IFQ), which are privileges to harvest a particular amount of crab, in pounds, in a given season. The size of each annual IFQ allocation is based on the amount of QS held, in relation to the QS pool in the fishery. So, a person holding 1 percent of the QS pool would receive IFQs to harvest 1 percent of the annual TAC in the fishery. Ninety percent of the CV owner IFQs is issued as "A shares" or "Class A IFQ," which must be delivered to a processor holding unused individual processor quota (IPQ). The remaining 10 percent of these annual IFQs are issued as "B shares" or "Class B IFQ," which may be delivered to any processor.[3] Processor quota shares (PQS) are long term privileges issued to processors. These PQS yield annual IPQ, which represent a privilege to receive a certain amount of crab harvested with Class A IFQ. IPQ are issued for 90 percent of the TAC, creating a one-to-one correspondence between Class A IFQ and IPQ.

In addition to processor share landing requirements, Class A IFQ (along with IPQ) are, under the program, subject to regional landing requirements, under which harvests from those shares must be landed in specified geographic regions. For the WAG fishery, 50 percent of the Class A IFQ is undesignated, which means that it can be delivered to any processor with corresponding IPQ, and 50 percent is designated for delivery in the West region, which is west of 174° W longitude, to any processor with corresponding West designated IPQ.

Regional designations were applied to QS during the initial allocation, based on landings histories, but adjustments were necessary as substantially less than 50 percent of the historical landings were made in the West region. The West designation was intended primarily to aid the development of processing in the community of Adak. Adak had little historic processing prior to the end of the qualifying period, as the community was occupied exclusively by the U.S. military during the development of the AI commercial fisheries. With the departure of the military in the late 1980s, the community has worked to develop civilian industries, including fish processing. Atka is recognized as a second potential beneficiary of the

[3] The terms "A share and "Class A IFQ" are used interchangeably in this paper, as are the terms "B share" and Class B IFQ."

region designation. That community has also begun to develop fish processing capacity in recent years, but has yet to develop significant crab processing capability.

Under the rationalization program, quota shares were allocated based on historical harvesting activity in the fishery. With few participants having such history, initial allocations of QS were very concentrated, and have remained very concentrated (see Table 3-3). All total, there were 14 owner QS holders and 8 crew QS holders in the fishery. Of the owner QS pool, the mean percent holding is 7.1, while the maximum percent holding is 45.7. Of the crew QS pool, the mean percent holding is 12.5 percent, while the maximum percent holding is 41.7 percent.

Table 3-3 Quota share holdings by share type, region, and operation type in the Western Aleutian Islands golden king crab fishery (2013/2014)

	Share holdings by region and operation type					Across regions and operation types		
Share type	Region/Catcher processor	QS holders	Percent of pool	Mean % holding	Maximum % holding	QS holders	Mean % holding	Maximum % holding
Owner quota shares	Undesignated	11	26.9	2.4	11.0	14	7.1	45.7
	West	8	26.9	3.4	13.5			
	Catcher processor	3	46.2	15.4	45.7			
Crew quota shares	Catcher vessel	7	57.5	8.2	21.7	8	12.5	41.7
	Catcher processor	2	42.5	21.3	41.7			

Source: AKFIN, April 27, 2015

Table orginates from WAG_Data_QS(04-27) & WAG_Data_QS(04-29) and AI Golden King Crab Tables

As would be expected in this relatively small fishery, PQS holdings are relatively concentrated, with only 9 PQS holders with a mean percent holding of 11.1 and a maximum percent holding of 30.1 (see Table 3-4). Initial allocations of PQS were made based on processing history in the fishery. Processors operating plants in the West region at the time of the initial allocation received their allocations in West designated PQS, while others received their allocations as divided equally between West designated PQS and undesignated PQS. To some extent, holdings are concentrated by area with a single holder having in excess of 50 percent of the West designated shares and three holders controlling in excess of 95 percent of the shares in that region. This level of concentration would typically benefit shareholders, by allowing consolidation of processing activity. In the first four years of the program, complete consolidation of West region processing activity was prevented by the processing share cap, which permitted no more than 30 percent of the pool from being held by or processed at the facility of a single person. An exemption from that cap now allows unlimited processing at a single facility in the West region (including the processing of all landings with undesignated shares).

Table 3-4 Processor quota share holdings by region in the Western Aleutian Islands golden king crab fishery (2013/2014)

	Share holdings by region				Overall share holdings		
Region	Number of PQS holders	Percent of pool	Mean % holding	Maximum % holdings	Number of PQS holders	Mean % holding	Maximum % holdings
Undesignated	7	50	7.1	29.7	9	11.1	30.1
West	6	50	8.3	26.5			

Source: AKFIN, April 27, 2015

Table orginates from WAG_Data_QS(04-27) & WAG_Data_QS(04-29) and AI Golden King Crab Tables

In April 2011, an amendment to the CR program established regulations for eligible contract signatories in the WAG fishery to apply for an exemption to the West regional delivery requirements that would

otherwise apply to all West-designated IFQ and IPQ holders.[4] In the WAG fishery, participants in the past had voiced concerns with processing capacity in the West region. In August of 2010, the operator of the Adak shoreplant filed for bankruptcy. Closure of the Adak plant precluded CVs from delivering crab harvested with their West-designated IFQ. West-designated IPQ holders lacked a facility to process crab with their West-designated IPQ. To address this issue, the Council recommended and the Secretary approved Amendment 37. The regulations allow the signatories to complete an application to NMFS requesting an exemption from the West regional delivery requirements. Eligible participants could submit an application to NMFS anytime during the crab fishing year. Upon approval of the application, NMFS exempts all West-designated Class A IFQ and IPQ from the West delivery requirements for the remainder of the crab fishing year. Such an exemption enables all West-designated Class A IFQ and IPQ holders to deliver and receive WAG at processing facilities outside of the West region. Since implementation of Amendment 37, NMFS has approved an application for annual exemption for the Western AI golden king crab fishing for the 2011/2012 season through the 2014/2015 season.

The few QS holders in the fishery have used measures provided by the rationalization program to concentrate activity in the fishery beyond their 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 each year since implementation of the program, in excess of 99 percent of the annual IFQ has been allocated to 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 (Table 3-5). Immediately following implementation of the crab rationalization program, the number of registered pots in the WAG fishery dropped sharply, but in the most recent two years has increased. Also dropping significantly after implementation of the crab rationalization program was the number of pot lifts and the number of lifts per registered pots. Average catch per unit of effort and pounds per pot lift has been increasing since implementation.

Table 3-5 Pot usage and catches in the Western Aleutian Islands golden king crab fishery (2000/1 through 2013/14)

Season	Number of pots registered	Number of pot lifts	Lifts per registered pot	Average catch per unit effort	Registered pots per vessel	Pounds per pot lifts	Deadloss (in pounds)	Deadloss per pound of catch
2000-2001	8,910	101,239	11.4	7	743	29	53,158	0.018
2001-2002	8,491	105,512	12.4	7	943	26	43,519	0.016
2002-2003	6,225	78,979	12.7	8	1,038	33	32,101	0.012
2003-2004	7,140	66,236	9.3	10	1,190	40	49,321	0.019
2004-2005	7,240	56,846	7.9	12	1,207	46	43,560	0.017
2005-2006	4,900	27,503	5.6	21	1,225	87	26,500	0.011
2006-2007	4,500	22,694	5.0	20	1,125	87	19,768	0.010
2007-2008	4,800	25,287	5.3	21	1,200	86	23,183	0.011
2008-2009	4,900	22,351	4.6	23	1,225	101	22,802	0.010
2009-2010	5,050	22,746	4.5	25	1,263	105	33,069	0.014
2010-2011	4,675	26,587	5.7	21	1,169	95	32,628	0.013
2011-2012	4,292	22,586	5.3	24	1,073	112	33,075	0.013
2012-2013	8,200	29,330	3.6	20	1,640	91	51,130	0.019
2013-2014	6,720	37,705	5.6	16	2,240	71	86,405	0.032

Source: ADFG AI golden king crab report

Table orginates from WAG 08_09 to 13_14 season (from ADFG) and AI Golden King Crab Tables

As might be expected, since implementation of the program, CV fishing has been extended over a longer period of time (see Table 3-6). Substantial time periods between landings (or breaks in fishing) have developed under the program. As for Adak, the season appears shorter than the overall WAG season; the first deliveries occur several months after the start of the fishery and the last deliveries general occur a month or two before the end of the season.

[4] Contract signatories include quota shareholders with 20 percent of the West-designated quota share, and the municipalities of Adak and Atka.

Table 3-6 Seasons and deliveries in the Western Aleutian Islands golden king crab fishery (2005/6 through 2013/14)

Season	Season opening	Date of first delivery	Date of first Adak delivery	Date of last delivery to Adak	Date of last delivery	Season closing
2005-2006	August 15	September 6	November 3	February 27	March 25	May 15
2006-2007		September 10	April 18	May 6	May 6	
2007-2008		September 14	November 27	May 17	May 21	
2008-2009		September 13	November 8	March 18	May 12	
2009-2010		September 5	No deliveries		May 18	
2010-2011		September 11	No deliveries		March 18	
2011-2012		September 6	February 3	March 24	April 10	
2012-2013		September 10	January 20	March 24	May 5	
2013-2014		September 9	No deliveries		May 8	

Source: AKFIN, April 27, 2015

Table orginates from WAG_LANDINGDATE(04-29) and AI Golden King Crab Tables

While landings have been spread over a relatively long time period, the West region IFQ allocation is relatively small and is unlikely to support any extended fishing period (see Table 3-7). Every year since implementation of the program, 2 to 3 catcher vessels participated in the fishery. These vessels made between 2 and 6 landings of West designated IFQ in Adak, and on 3 occasions made landings of undesignated IFQ at the Adak facility.

Table 3-7 Active catcher vessels and number of landings for West region and undesignated IFQ (2005/6 through 2013/14)

Season	Number of active catcher vessels	Western region IFQ allocations (lbs)	Number of landings			
			Number of landings of West region IFQ		Number of landings Undesignated IFQ	
			Adak	Total	Adak	Total
2005-2006	2	570,932	6	13	1	10
2006-2007	2	570,932	2	5	0	7
2007-2008	2	570,932	5	9	0	8
2008-2009	2	599,474	4	7	0	7
2009-2010	2	599,475	0	7	0	9
2010-2011	2	599,475	0	8	0	7
2011-2012	2	599,475	3	8	1	8
2012-2013	3	630,139	5	9	1	10
2013-2014	3	630,139	0	9	0	11

Source: ADFG AI golden king crab report

Table orginates from WAG_Trips(04-29) and AI Golden King Crab Tables

Crab markets in generally exhibit volatility. Table 3-8 demonstrates ex vessel value as well as first whole sale prices for both golden king crab sections (the much more prevalent way to market crab), as well as the few entities that have pursued the live crab market.[5] First wholesale prices for golden king crab sections shows a notable decline in 2006, the first full year after implementation of the rationalization program. This drop coincided with an abundance of competing small sized red king crab imports. In the second and third years following implementation of the program, king crab inventories were depleted, which together with a relatively strong Japanese market, led to increases in golden king crab section

[5] Note that this table displays information for all golden king crab fisheries in Alaska and not just WAG.

prices. This was followed by a weakness of the global economy and, more specifically, crab markets (particularly large retain and food service markets) are believed to have led to slightly lower prices through 2010. Prices increased for golden king crab sections increased in 2011, but then settled slightly over the next three years.

The market for live golden king crab demonstrates a very different trend. The few sellers of this product are generally marketing Southeast Alaska golden king crab, although an exploratory market has developed in Adak in recent years as well. These data support anecdotal evidence that, while the live crab may be a more challenging product to supply, it can come at a premium price for sellers.

Table 3-8 Estimated golden king crab ex vessel prices and first wholesale prices (crab sections), 2001 through 2014 (dollars/pound)

Year	Ex vessel price	First wholesale price	
		Sections	Live
2001	3.34	7.08	5.11
2002	3.42	7.50	4.98
2003	3.55	7.90	5.80
2004	3.08	5.99	5.86
2005	2.74	6.12	6.05
2006	1.92	4.44	6.91
2007	2.16	5.38	6.52
2008	3.58	6.85	6.74
2009	2.45	5.08	6.23
2010	3.80	7.68	6.49
2011	4.73	11.15	10.09
2012	3.87	8.38	11.05
2013	3.89	8.64	*
2014	4.36	8.76	15.78

Source: AKFIN, April 27, 2015

Table orginates from WAG_Data(04-27)-1 and AI Golden King Crab Tables

* Denotes confidential data

3.5.3 Harvesting Operations

As displayed in Table 3-1, since the CR program, this fishery has chiefly consisted of two CVs and 1 CP. This table also displays a relatively consistent TAC with only two increases in the past decade. Trips for these few vessels are generally quite long; three weeks is common. The vessels have several tanks to hold live crab. Any crab that arrives at the processor dead is weighed by the processor and reported as deadloss. Therefore vessels have an incentive to keep crab alive regardless of the market opportunities they are pursuing. Golden king crab is a tough species and generally can survive in vessel tanks for an extended period of time. With the exception of 2006/2007 through 2008/2009 seasons, nearly 100 percent of the WAG TAC has been harvested. Retention of multiple species in CR fisheries is allowed in only a few cases; there are no bycatch allowances for WAG.

By definition of the allocation, all fishing activity occurs west of 174 W long. These vessels are covering a very large fishing area. Fishing occurs all the way out to the Russian boundary, in Regulatory Areas 543 and 542, usually west of Adak.

3.5.4 Processing Operation

The following is a description of the processing operation for live king crab at the Adak processing facility as stated in an article from *Adak Eagle's Call* (April 2015):

> Crab is offloaded from the fishing vessel in totes specifically designed live crab and is transported via forklift into the plant for weighing. Totes are then transported to a staging area where the totes are fitted with hoses that provide continuously flowing seawater and oxygen to the crab. The crab can stay in the staging area for up to 36 hours before shipment. On the day of shipment, the totes are drained and transported to the packing area. Each crab is inspected and weighed. Crab that are not active enough or appear to be dead are removed and counted as dead loss. Live crabs are placed in wax boxes with a thick plastic liner. The average box weighs 54.6 lbs. Once packed, the crabs are flown to Anchorage International Airport. If the flight is does not arrive, the crab are unpacked and returned to their tote habitat. The process of unpacking the crab and returning them tote the habitat totes generally increases the dead loss, so the crab are packed at the very last minute for shipment.

3.5.5 AI Communities

Adak and Atka are the two communities located in the AI with shoreside processing plants that could benefit from the partial offloading of crab deliveries in the WAG fishery. Utilizing confidentiality waivers for deliveries of groundfish and crab to Adak and Atka shoreplants from 2002 through 2013, Table 3-9 provides information on deliveries and metric tons of groundfish species and golden king crab to the Adak and Atka shoreplants. Some minor amount of snow crab was delivered to Adak in 2003.

3.5.5.1 Adak

Adak is located on Kuluk Bay on Adak Island in the Aleutian chain. It is the southernmost community in Alaska. It lies 350 miles west of Unalaska and is not a CDQ community. The Aleut Corporation acquired the majority of Adak's former military facilities in 2004. Since that time, the Aleut Corporation has continued its efforts to develop Adak as a civilian community with a private sector economy focused heavily on commercial fishing. Adak is pursuing a broad range of fisheries for a resident fleet to be able to deliver to Adak Fisheries, the shoreside processor located on Adak.

The development of a local residential fleet has been a goal of the local leadership, but currently the locally-owned CV fleet is small. Three residents held commercial fishing permits as of 2010 for sablefish, salmon, groundfish, and halibut. Adak is not currently eligible to participate in the CDQ program, but is considered a Community Quota Entity, which allows Adak to purchase halibut CV quota share assigned to Area 4B and sablefish quota share assigned to the AI. In addition, as a result of Congressional action it receives a 10 percent allocation of Western AI golden king crab to help foster the development and maintenance of sustained fisheries participation. Congressional action has also provided an allocation of AI pollock to the Aleut Corporation for the benefit of Adak, outside of the CDQ program.

Adak is home to a large shore-based processing plant. Most commercial fishing deliveries to the Adak shoreplant are from larger vessels from outside the area. Of the species processed, Pacific cod, halibut, and sablefish have been the primary species. The community has also seen some crab and Pacific cod activity related to other companies, but these companies are not physically located in the community. When operational, the Adak processing plant was most active from January through March, followed by a relatively quiet period from April through June, and then running about half-speed from July through September before activity tapering off from October into November. The A season Pacific cod fishery has

historically been the main source of income for the plant (and raw fish tax revenue for the City of Adak), accounting for about 75 percent of the plant revenue.

Adak shoreplant has had numerous ownership changes since its establishment in 1999 as Adak Seafoods. In mid-July 2000, Norquest became a predominant partner. In January 2002, Icicle Seafoods became a relatively equal partner in the operation, which operated as Adak Fisheries, LLC. Other ownership changes ensued, although until recently, the company still operated as Adak Fisheries, LLC. In 2009, the price of Pacific cod dropped to less than half of the 2008 price. As a result, Adak Fisheries, LLC. struggled to meet its financial obligations, and in the end, filed for Chapter 11 bankruptcy in September 2009. During 2010 and 2011 fishing years, financial difficulties surrounding the Adak shoreplant resulted in no processing of Pacific cod. In 2012, the shoreplant, operated by Icicle Seafood, was once again open for business, processing a large portion of AI Pacific cod. In April 2013, Icicle Seafoods closed its operation in Adak citing concerns about the health of the region's Pacific cod resource and increased regulatory uncertainty surrounding AI Pacific cod. In June 2013, the City of Adak was the highest bidder in an auction for the processing equipment formerly owned by Adak Seafood, LLC. The intent of the purchase by the City was to keep the processing equipment in place, as a turnkey operation, in order to facilitate the expedited reopening of the plant. In September 2013, Aleut Corporation's subsidiary Aleut Fisheries signed a 20-year lease with Adak Cod Cooperative to operate the Adak seafood processing facility.

Adak Cod Cooperative renovated the Adak seafood processing facility from a headed and gutted operation into a fillet operation. The renovated shoreplant began processing AI Pacific cod in early February 2014, utilizing six trawl CVs, four greater than 60' in length and two that are 58' in length. In addition, US Seafoods agreed to process only incidentally caught AI Pacific cod while targeting other AI fisheries. Unfortunately, the Adak Cod Cooperative closed its operation at the Adak shoreside processing facility in May 2014.

An April 2015 article in The Adak Eagle's Call, stated that Premier Harvest, LLC has recently purchased fishing processing equipment from the City of Adak and signed a 20 year lease with the Aleut Corporation for the Adak fish processing facility. Premier Harvest has been processing live crab in Adak since 2014. Premier Harvest specializes in premium live and fresh crab with shipments domestically, as well as Europe, Asia, and Middle East.

3.5.5.2 Atka

The community of Atka is located on Atka Island on the Aleutian Chain, about 100 miles east of Adak and 350 miles west of Unalaska. Atka encompasses 8.7 square miles of land and 27.4 square miles of water. Aside from Adak, it is the only civilian community in the AI subarea.

The island has been occupied for over 2,000 years by Aleut residents and became a major trade site for Russian settlers in the 1700s. By the 1920s, Atka had become a center for fox farming. The island was evacuate during World War II after the Japanese military attacked Unalaska and landed on Attu and Kiska. After World War II, former residents of Attu, Kiska, and Atka relocated to the island.

Atka was incorporated as a second class city in 1988. The population for the community is relatively small, estimated at 61 total persons by the latest U.S. Census. Residents of Atka are primarily Alaska Native (Aleut), and a Federally-recognized tribe is located in the community (the Native Village of Atka IRA).

The economy is predominantly based on subsistence living, as well as commercial halibut and sablefish fishing. According to the Commercial Fisheries Entry Commission (CFEC), 4 commercial permits were

held by residents. No other permits were held in Atka for other fisheries. Atka is a CDQ community and a member of the Aleutian Pribilof Island Community Development Association (APICDA) CDQ group. As a member of APICDA, the community benefits from the Community Development Quota (CDQ) shares in a number of commercial fisheries, including Pacific cod, Atka mackerel, yellowfin sole, rock sole, Greenland turbot, arrowtooth flounder, flathead sole, Pacific ocean perch, Pacific halibut, various crab fisheries, and Chinook salmon. In 2011, specific to AI Pacific cod, APICDA had an effective allocation within the CDQ reserve of 15.45 percent. In recent years, APICDA has used CDQ funds to construct small and large dock facilities, add infrastructure to Atka's harbor, improve the Alaska Pride Seafood plant, and construct a new inn for visitors.

The processing plant that is located in Atka is a joint venture between APICDA Joint Ventures and the Atka Fisherman's Association. They formed Atka Pride Seafoods in 1994, began processing in 1995, and have processed every year since. The primary species processed are halibut and sablefish, and the commercial fleet delivering to Atka is involved mainly in those fisheries. According to senior APICDA staff, Pacific cod is seen as the linchpin for the future of processing in the community, an assessment that has led to substantial infrastructure investments by the group. The shore processor recently completed a $4 million expansion, and will begin another major round of improvement in 2014, to make the plant a year-round operation.

There is also interest in developing processing capacity for WAG at the plant, with both APICDA and the Atxam Corporation (Atka's Alaska Native Claim Settlement Act (ANCSA) village corporation) having acquired processor quota shares for that species.[6] According to APICDA staff, impediments to crab processing in the community have included lack of deep water vessel access (now addressed through the new dock), and the fact that the Western AI golden king crab fishery is essentially a two-vessel fishery with deliveries made approximately once every two weeks during the fishing season. For efficiency reasons, other relatively high volume processing is needed at the plant to justify both the investment in an increased processing capacity and the retention of a sufficient number of processing workers.

[6] Under the BSAI crab rationalization program, half of the WAG harvest shares have a western landing designation, while the other half is undesignated. While processors in Adak and Atka (the two communities in the western share landing/processing region), did not qualify for an initial history-based allocation of WAG processor quota shares, some processor quota shares for WAG were subsequently acquired from Unalaska/Dutch Harbor shore-based processors by APICDA and Atxam through a divestiture process. To date, processing of these share has variously occurred in Adak or in Unalaska (with the latter occurring under custom processing agreements when processing capacity was otherwise not available in the western share landing/processing region.

Table 3-9 Number of vessels delivering and amount (mt) by fishery to Adak and Atka shoreside processors from 2003 through 2013

Year	Data	Adak		Atka	
		Vessels	Metric tons	Vessels	Metric tons
2002	AI Pacific cod	37	8,527	0	0
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	0	0	0	0
	Halibut	39	1,049	9	231
	Sablefish	25	468	1	*
	Golden king crab	26	874	0	0
	Other Groundfish	32	569	1	0
2003	AI Pacific cod	30	8,729	0	1
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	0	0	0	0
	Halibut	40	624	7	363
	Sablefish	26	245	6	6
	Golden king crab	19	959	0	0
	Other Groundfish	27	296	6	6
2004	AI Pacific cod	33	9,475	0	0
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	0	0	0	0
	Halibut	34	438	6	234
	Sablefish	22	113	4	7
	Golden king crab	9	691	0	0
	Other Groundfish	31	158	4	7
2005	AI Pacific cod	25	6,462	0	0
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	0	0	0	0
	Halibut	30	342	5	157
	Sablefish	19	276	3	2
	Golden king crab	6	175	0	0
	Other Groundfish	20	293	3	2
2006	AI Pacific cod	24	6,321	1	*
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	5	200	0	0
	Halibut	20	132	5	155
	Sablefish	11	67	4	123
	Golden king crab	0	0	0	0
	Other Groundfish	18	1,001	4	124
2007	AI Pacific cod	35	9,625	1	*
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	31	2,939	0	0
	Halibut	34	176	5	139
	Sablefish	16	72	3	77
	Golden king crab	4	190	0	0
	Other Groundfish	17	1,509	3	77
2008	AI Pacific cod	36	4,327	1	*
	BS and GOA Pacific cod	1	*	0	0
	State GHL Pacific cod	26	1,288	0	0
	Halibut	29	168	6	169
	Sablefish	13	127	3	9
	Golden king crab	3	380	0	0
	Other Groundfish	22	801	2	*

Source: AKFIN, August 13, 2014.

Table orginates from pivot file AI_PCOD_PROC_DIV(08-13) and AI Golden King Crab Tables

Table 3-7 continued

Year	Data	Adak		Atka	
		Vessels	Metric tons	Vessels	Metric tons
2009	AI Pacific cod	18	8,005	0	0
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	14	372	0	0
	Halibut	10	0	0	0
	Sablefish	1	*	0	0
	Golden king crab	0	0	0	0
	Other Groundfish	2	*	0	0
2010	AI Pacific cod	0	0	1	*
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	0	0	0	0
	Halibut	0	0	8	249
	Sablefish	0	0	5	99
	Golden king crab	0	0	1	*
	Other Groundfish	0	0	4	99
2011	AI Pacific cod	6	23	0	0
	BS and GOA Pacific cod	1	*	0	0
	State GHL Pacific cod	3	30	0	0
	Halibut	16	265	9	248
	Sablefish	11	120	5	149
	Golden king crab	1	*	1	*
	Other Groundfish	11	122	5	155
2012	AI Pacific cod	16	3,173	0	0
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	23	4,383	0	0
	Halibut	33	398	13	203
	Sablefish	16	103	8	278
	Golden king crab	2	*	0	0
	Other Groundfish	23	129	8	283
2013	AI Pacific cod	6	3,568	1	*
	BS and GOA Pacific cod	0	0	0	0
	State GHL Pacific cod	12	4,829	0	0
	Halibut	12	4	18	189
	Sablefish	0	0	8	133
	Golden king crab	1	*	1	*
	Other Groundfish	5	4	8	136
Source: AKFIN, August 13, 2014.					
Table orginates from pivot file AI_PCOD_PROC_DIV(08-13) and AI Golden King Crab Tables					

3.6 Analysis of Impacts: Alternative 1, No Action

Under the status quo regulation, vessels can, and have been, making small partial deliveries of live WAG to Adak. Given the current prohibition against continuing to fish once off-loading has begun and until its completion, vessels are somewhat constrained in the way they land live WAG at the Adak facility. Generally, harvesters have been making partial deliveries to Adak at opportunistic times, before delivering the remainder of the harvest to processors that can accommodate this volume. If timing is right, vessels could also make a small target harvest (8,000 to 14,000 pounds depending on the type of aircraft available) and off-loading this full amount in Adak (Dave Frasier, 5/14/2015, personal communications).

The entity currently developing the live market for WAG out of Adak is leasing out the facilities from the Aleut Corporation and has recently taken on the contract to purchase the equipment from the city as well. This company is paying a competitive price to harvesters for live WAG crab, motivating the harvesting sector to take advantage of the opportunity to deliver partial loads of WAG to Adak whenever the logistics present the chance. This crab processing company may expand operations in the future to include cooked crab or frozen crab sections as well (Dave Frasier, 5/14/2015, personal communications).

Thus if no regulatory action was taken by the Council, current fishing and processing behavior would be expected to remain on this trajectory.

3.6.1 State Management Under the No Action Alternative

Since the State of Alaska takes on the responsibility for management of this fishery, there are several areas of State management also relevant to discuss under the status quo.

3.6.1.1 Observer Coverage, Dockside Sampling and Sampling Procedures

State of Alaska regulations (5 AAC 39.645) adopted by the Board of Fisheries provide ADF&G the full authority and responsibility for deploying onboard observers on any vessel participating in the commercial BSAI crab fisheries as necessary for fishery management and data-gathering needs. Schwenzfeier et al. (2014) provides details on regulations pertaining to the *State of Alaska Shellfish Onboard Observer Program* and a history of that program from its inception in 1998. State regulations for observer coverage in the AI golden king crab fishery require catcher vessels to carry an observer during harvest of at least 50% of their total harvested weight in each 3-month trimester of the 9-month season. Catcher processors are required to have 100 percent observer coverage.

For the purposes of observer sampling, an observed trip is considered to be the time period between when an observer boards a vessel and the complete delivery of all crab harvested. The observer's second trip starts after the first full offload is complete, and so on. Observer trips are not defined in state regulations, but this is the observer sampling protocol. Only harvest which is delivered at the end of the observed trip is counted for determining percent observer coverage. If a vessel does not deliver all of its harvested crab to a plant, and resumes fishing, the observed trip would not be considered complete under the entire harvest is delivered.

Dockside samplers, when available, sample the retained catch of unobserved CVs delivering to shoreside processing plants. Dockside staff are located in Dutch Harbor and seasonally (winter months) in Akutan, King Cove, and St. Paul. Dockside samplers are currently not deployed to Adak.

Observers deployed on fishing vessels in the AI golden king crab fishery record the gear type, location, depth and soak time of a daily random sample of pot lifts, the species composition of their contents, and the sex and legal status of commercially important captured crabs. For a subset of sampled pot lifts, a

range of biological measurements and assessments of commercially important crabs and other species of interest is also obtained. In addition, observers and dockside samplers document overall vessel catch and effort, take size-frequency samples, conduct legal tallies and estimate the average weight of delivered catch. Information collected by observers and dockside samplers is used in research and management of the AI golden king crab stocks (Gaeuman, 2014).

3.6.1.2 Reporting Requirements (Observers and Dockside Samplers)

Comprehensive ADF&G crab observer sampling methods are detailed in the 2014 ADF&G Crab Observer Training and Deployment Manual.[7] ADF&G dockside sampling methods are detailed in the 2014 ADF&G Dockside Sampling Manual.[8]

Confidential Interview Form (CIF), and CIF Summary**.** Observers or dockside samplers interview the captain and record information regarding fishing locations, the number of crabs retained, number of pots lifted, average soak times and fishing depths, and gear sizes. The Confidential Interview form and the Confidential Interview Summary form are a synopsis of the daily activities of the vessel and are submitted together as a single data set when a trip is completed. The CIF is a day-to-day breakdown of fishing activity, and the CIF Summary summarizes trip and offload information such as average weights and deadloss weights.

Sometimes, a CV will deliver portions of the catch from the same trip to different processors, and if it is an observed trip, the observer stays on the vessel until the offload is complete. Average weight information and deadloss is recorded for each offload if an observer or dockside sampler is present. One CIF data set is completed for the entire trip and one CIF Summary is completed for each offload. Each CIF Summary has the corresponding processor name, port, and summary date for the offload. Recorded information includes average weights, deadloss and personal use specific to the offload.

Daily Fishing Log (DFL). It is mandatory that the captain complete a daily fishing log which is issued by NMFS. The observer or dockside sampler collects the goldenrod hard copies from the DFL and submits them along with the CIF data set. The DFL is used as a tool to assist in editing the confidential interview; both are used by management staff to verify fish ticket information and to edit location and effort information as necessary. Catch per unit of effort data (CPUE), defined as catch per pot lift, is used in the stock assessment (under development) for AI golden king crab and as a metric for fishery performance by management staff.

3.6.1.3 At-Sea Sampling (Observers Only)

Randomly selected pot lifts are enumerated and sampled for species identification. For a subset of these pot lifts, measurements and assessments of ancillary characteristics are also recorded for crab of selected species. The protocol is the same for both CVs and CPs, but the target number of sample pots may be different depending on vessel type.

Pot sampling conducted by observers provides fishery biologists with independent data on species composition and bycatch, CPUE, size frequency distributions, crab diseases, fecundity, and mortality associated with fishing or sorting. These data provide information on the portion of the catch that is not retained and are used to estimate total catch in the fishery.

[7] Crab Observer Training and Deployment Manual. September 2014. ADF&G Shellfish Observer Program, Dutch Harbor, unpublished.
[2] Bering Sea Aleutian-Islands Dockside Sampling Manual, 2014. ADF&G Shellfish Dockside Sampling Program, Dutch Harbor, unpublished.

3.6.1.4 Retained Catch Sampling (Observers and Dockside Samplers)

Average Weights. Observers and dockside samplers are required to obtain independent, representative average weights of retained crab which are reported on the Confidential Interview Summary form. At least three brailers per species retained, and one brailer from each tank are taken when possible. If a processor is using totes instead of brailers, the target is to sample at least six totes per species retained. A full count of crab in each brailer or tote is taken to compute average weight.

Size Frequency. The objective of size frequency sampling is to document the distribution of size classes and shell conditions in the retained catch to determine which segments of the crab stocks are removed by fishing. Because crabs shed their entire exoskeleton when they molt, physical size is the only practical method for estimating the age of crabs. The biological measurements made by observers and dockside samplers are compiled to show the relative age distributions of crab populations and strength of discrete age classes. Size frequency data are also used to generate estimates of abundance and recruitment (in the stock assessment model), and may be used to establish allowable harvest rates and predict population trends. The goal is to conduct a 100-crab size frequency sample for every offload. If the vessel offloads to different processors in the same trip, a 100-crab sample for each offload is conducted by the observer using separate forms for each offload. Dockside samplers conduct size frequency samples at only one processor.

Legal Tally**.** The objective of the legal tally sample is to determine the percentage of illegal crab retained by a vessel. The sampling goal is a tally of 600 crab or 25% of the load, whichever is smaller. If multiple deliveries are made to different processors in the same trip, a 600-crab sample is performed for the entire trip, apportioned over all deliveries. If possible, sampling is done proportional to how much crab is delivered to each plant.

Collection of evidence specimens is determined by the calculated percentage of illegal crab based on the total number of illegal crab from all partial deliveries for one trip combined. Samples of illegal specimens are retained until all partial deliveries are completed.

3.7 Analysis of Impacts: Alternative 2, Exemption to Full Offload Delivery Requirements

Alternative 2 would allow crab harvesters the option of landing a partial load of WAG and resuming fishing activity prior to landing the remainder of the crab. As described in Section 3.5, the scope the proposed action alternative is limited. Therefore, the expected impacts on the action are limited as well. This section discusses impacts on harvesters, processors, communities, safety, as well as federal and state management measures.

3.7.1 Impacts on Harvesters

The vessels currently harvesting WAG are expected to experience some financial benefits from the action alternative. While they are currently participating in the live crab market out of Adak and receiving a premium price for a small delivery, the action alternative would eliminate one additional logistical challenge that has frustrated the financial incentives and has made it challenging to respond to the opportunity to land partial deliveries in Adak. The action alternative could potentially allow harvesters more opportunities to make partial deliveries and receive a premium price for their landing. In addition, it could allow harvesters the ability to be more efficient when landing the remainder at a plant that could accept such volume. Alternative 2 would give harvesters the ability to top-off, potentially saving them money in fuel costs and time spent returning to the fishing grounds.

The number of vessels participating in the fishery is expected to remain consistent with the status quo. Spatial and seasonal distribution for the harvesting vessels is not expected to significantly change due to the action alternative.

The ability of the processor to expand operations, diversify their crab markets, and have the ability to accept a full delivery of WAG, might have an impact on some of the harvesting operations. However, that possibility would be influenced by a large suite of factors external to this action alternative. Therefore additional impacts resulting from such market expansion are not further discussed in this section.

3.7.2 Impacts on Processors and Communities

As a result of the decreased regulations for harvesters under Alternative 2, the processer in Adak is expected to benefit from some increased activity. The overall success of the operations will be directly contingent on many other factors external to this action alternative.

Representatives from Adak have testified to benefits Alternative 2 would have on their community. Increased economic activity from the fishing sector would provide benefits through fuel sales and secondary services from vessels landing in the community. Increased activity at the plant could promote increased local labor opportunities. Additionally, both the municipality of Adak and the State of Alaska levy raw fish taxes. In 2014, Adak had a 2 percent raw fish tax which raise revues of $134,861 for the community according to the Alaska Department of Commerce (2014). Half of the State of Alaska fisheries business tax is shared with the cities or boroughs where the processing takes place.[9] Therefore landings also benefit the community through increased tax revenue.

In addition, the community entity representing Adak holds a Congressionally-assigned allocation of WAG quota for the community (10 percent of Western AI golden king crab quota pool). The community leases this quota and receives royalties from the revenue they generate. Thus the community of Adak also has incentive to encourage maximum returns from this allocation.

As stated in Section 3.5.5, processing of WAG has not historically occurred in Atka. Atka is the second possible community for which the West regional landing designation would benefit. However, due to insufficient current processing capacity for WAG in both Adak and Atka in recent years, vessels have been exempt from this landing requirement. The CDQ community that represents Atka as well as its joint ventures has expressed interest in developing this processing capacity in the future. If this were to occur, Alternative 2 may provide additional benefits to Atka.

WAG has been processed in the recent past in Dutch Harbor and the community of Akutan. Dutch Harbor, the City of Unalaska, and Akutan may be indirectly adversely impacted by the redistribution of some WAG quota that has been processed at plants in Dutch Harbor in the recent past. However, it is expected if there is an impact on these communities and processer located there, the effects from Council action will be very small. Some partial deliveries are currently occurring at the Adak facilities; thus, this would not constitute redistributed effort based on this proposed action. Additionally, Alternative 2 would likely only facilitate a small increase in opportunity to make partial deliveries of live crab to Adak. Operations are still constrained by regional flight patterns and other region-specific factors. Ultimately the extent of adverse impacts will depend on the amount of WAG redistributed from these processers to Adak and possibly other Western Aleutian plants in the future.

[9] For more information on the types of State fisheries tax see: http://www.tax.alaska.gov/programs/programs/index.aspx?60620

If the processor in Adak expands their operations in the future to the extent that it could accept a full delivery, this might represent a significant redistribution of WAG from Dutch Harbor or Akutan to Adak processing operations. However, much of this quota was intend to be processed in the Western AI as demonstrated by the West region landing requirement. Moreover, as previously mention, this result would be influenced by a large suite of factors external to this action alternative.

3.7.3 Impacts on Safety

The proposed action alternative is not expected to have any impact on the status quota of safety in the fleet. It is expected that the vessels participating in the fishery would remain the same. Fishing behavior would be essentially consistent with the status quo. The primary difference for harvesters under the action alternative would be that harvesters could return to the fishing grounds before completing a full offload of CR crab. Therefore no impacts are expected on safety.

3.7.4 Impacts on Federal Management Measures

NMFS has not identified any management concerns with the proposed action because the current landing report requirements and catch accounting system for the CR Program would not change. Under the status quo, all retained crab catch must be weighed, reported, and debited from the appropriate IFQ account under which the catch was harvested and IPQ account under which the catch was processed using the internet-based reporting system, eLandings. The crab landing report generated by eLandings is used to debit crab landings from IFQ and IPQ accounts for catch accounting purposes. NMFS anticipates that implementation of the proposed action would not change landing report requirements and would, therefore, not impact the CR Program catch accounting system.

3.7.5 State Management Impacts and Recommendations

Alternative 2 would allow vessels participating in the WAG fishery to continue fishing after offloading a portion of their retained catch. Returning to the fishing grounds with crab onboard would comingle crab retained from more than one fishing trip and thus the biological data sampled from subsequent offloads would be a blend of crab caught on more than one fishing trip. These trips may or may not be in the same area, may have different soak times, fishing depths, etc. Logbook data could not be associated with specific crab offload data unless crabs are separated into different tanks and the vessel operator notes in the logbook the fishing strings associated with each offload.

Likewise, if crab destined for a live market are kept in a separate tank, size frequency-shell condition samples could be taken in the fish hold by an observer as typically occurs. Sampling in the fish hold is done in order to not bias the sample based on what the processor retains or not (i.e. if a female or sublegal crab were refused by the processor they would not be a part of the sample). If crab are not kept separate, then sampling would need to be taken only from product offloaded; the sampler would need to ensure that sampling only occurred on the dock.

Legal tallies could not be taken if sampling occurred on the dock, as that crab is presorted by the processor and illegal crab would not be detected in the tally. A legal tally could be conducted if catch from partial trips are in separate tanks; a full legal tally would be conducted in each tank.

Highgrading for crab suitable to a live crab market (price differential and survivability of large, clean, undamaged crab with no disease) can occur and partial offloads, which are currently allowed and would continue to be allowed under Alternative 2, provide an opportunity for vessel operators to sort crab suitable for live market. Under Alternative 2, if the vessel is allowed to continue fishing before offloading the entire harvest, ADF&G may be able to compare observer pot sample size frequency data to retained

catch size frequency data to detect differences in catch and landings if highgrading occurs. However, this would be confounded because there may not be a direct link between offload data and observer sample data. At-sea catch samples taken by observers are linked to the retained catch data in order to estimate total fishery removals.

Keeping crab destined for the live market in a separate tank may minimize deadloss, which vessels attempt to avoid. Tanking down (removing water from a tank in order to offload crab), refilling the tank and running back to the fishing grounds with crab onboard could promote deadloss. Documentation of deadloss is the responsibility of the vessel operator and buyer and can be documented on observed vessels or by dockside samplers during an offload. However, if no observer or dockside samplers are available then enforcement of accurate documentation of deadloss would not occur.

Recommendations

Alternative 2 does not require any changes to state regulations at this time. However, if vessels intend to continue fishing after partially offloading retained catch, then those crabs destined for the partial offload should be kept in a separate tank and logbooks should indicate the pot strings that contribute to that harvest. This will ensure that status quo sampling and accurate accounting of effort can occur. Given the limited number of vessels that participate in the WAG fishery, ADF&G will continue to work with the fleet to obtain accurate effort information and ensure that unbiased sampling of the retained catch occurs.

Maintaining either full or no observer coverage (i.e. not switching from observed to unobserved mid-trip) when partial offloads with continued fishing are occurring would allow observer coverage days to be accurately calculated and ensure that at-sea data can continue to be linked to retained catch data. As stated earlier, an observed trip begins either when an observer boards a vessel or after the vessel has fully offloaded. State regulations do not prohibit an observer from boarding a vessel mid-trip during a partial offload and typically observers are deployed from Dutch Harbor due to the additional costs of flying an observer to Adak. Given the limited number of vessels that participate in the WAG fishery, ADF&G will continue to work with the fleet to ensure that observers are deployed in the WAG fishery so that accurate sampling and accounting may occur.

3.7.6 Enforcement Impacts and Recommendations

Stakeholder groups brought this proposal to the Council with the intention that this exemption would just apply to the WAG stock. Federal enforcement representatives have since highlighted that removing this regulation for all of the CR stocks would also remove an enforcement burden. The proposed action alternative could, in fact, create the new burden of having to distinguish this exemption for vessels participating in other CR fishery. For example, some vessels and captains also participate in the Eastern Aleutian Golden king crab fisheries (EAG) and other CR fisheries. Captains would need to remember that the proposed exemption would apply only to WAG fishery.

As stated in Section 3.5.2, the intent of this regulation was to address primarily enforcement concerns that undesirable crab could be dumped at sea without being accounted for. Experience with the program has shown that this is a highly unlikely event due to other factors such as VMS, port samplers, and the feasibility of discarding large amounts of crab from a tank at sea.

It is the Council's discretion whether this action should be expanded to include other stocks in the CR fisheries. Harvesters could potentially benefit from the increased flexibility. Removing the regulation for all CR fisheries would allow participants flexibility in their fishing operations in instances such as ice edge advances, storms, unanticipated breakdowns, etc. However, unlike in the case of Adak where a partial load could be very beneficial to the community, increased flexibility to land partial loads to

processors that have historically received full loads of CR crab, may instigate of a suite of community-level impacts that are currently outside the scope of this analysis.

3.8 Summation of the Alternatives with Respect to Net Benefit to the Nation

Regulatory and management changes attributable to the action alternative will have distributional effects on individuals harvesting WAG the community of Adak, and IPQ holders. In addition, live crab operations will provide a new opportunity of for consumers to purchase live WAG. Therefore while net benefits on the Nation as a whole are expected to be very small they are expected to be slightly positive as a whole.

4 Initial Regulatory Flexibility Analysis

4.1 Introduction

This Initial Regulatory Flexibility Analysis (IRFA) addresses the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601-612). This IRFA evaluates the potential adverse economic impacts on small entities directly regulated by the proposed action.

The RFA, first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse economic impacts on small entities as a group distinct from other entities, and on the consideration of alternatives that may minimize adverse economic impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either 'certify' that the action will not have a significant adverse economic impact on a substantial number of small entities, and support that certification with the 'factual basis' upon which the decision is based; or it must prepare and make available for public review an IRFA. When an agency publishes a final rule, it must prepare a Final Regulatory Flexibility Analysis, unless, based on public comment, it chooses to certify the action.

In determining the scope, or 'universe', of the entities to be considered in an IRFA, NMFS generally includes only those entities that are directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis.

4.2 IRFA Requirements

Until the North Pacific Fishery Management Council (Council) makes a final decision on a preferred alternative, a definitive assessment of the proposed management alternatives cannot be conducted. In order to allow the agency to make a certification decision, or to satisfy the requirements of an IRFA of the preferred alternative, this section addresses the requirements for an IRFA. Under 5 U.S.C., section 603(b) of the RFA, each IRFA is required to contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, record keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap, or conflict with the proposed rule;

- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:

    1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
    2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
    3. The use of performance rather than design standards;
    4. An exemption from coverage of the rule, or any part thereof, for such small entities.

In preparing an IRFA, an agency may provide either a quantifiable or numerical description of the effects of a proposed action (and alternatives to the proposed action), or more general descriptive statements, if quantification is not practicable or reliable.

4.3 Definition of a Small Entity

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a 'small business' as having the same meaning as 'small business concern', which is defined under Section 3 of the Small Business Act (SBA). 'Small business' or 'small business concern' includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a "small business concern" as one "organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor…A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the firm is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture."

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. Effective July 22, 2013, a business involved in *finfish harvesting* is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual gross receipts not in excess of $19.0 million for all its affiliated operations worldwide. A business involved in *shellfish harvesting* is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual gross receipts not in excess of $5.0 million for all its affiliated operations worldwide. A *seafood processor* is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business that *both harvests and processes* fish (i.e., a catcher/processor) is a small business if it meets the criteria for the applicable fish harvesting operation (i.e., finfish or shellfish). A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established "principles of affiliation" to determine whether a business concern is "independently owned and operated." In general, business concerns are affiliates of each other when one

concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when (1) a person is an affiliate of a concern if the person owns or controls, or has the power to control 50 percent or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) if two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors, or general partners, controls the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint venturers if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small organizations. The RFA defines "small organizations" as any not-for-profit enterprise that is independently owned and operated, and is not dominant in its field.

Small governmental jurisdictions. The RFA defines "small governmental jurisdictions" as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000.

4.4 Reason for Considering the Proposed Action

The Council has not yet formally identified a purpose and need or problem statement for this action. However, it supported further analysis of the issue, acknowledging the interests of stakeholders. The purpose and need for this action, as expressed through public testimony and Council discussion, is summarized below.

The purpose of this action would be to create an exemption for WAG from the regulations that prohibit the continuation of a fishing trip subsequent to a partial offload of crab in the crab program (Appendix 1).

This regulatory exemption would allow vessels prosecuting the WAG fishery to make partial deliveries of crab and then continue fishing before fully offloading all harvested crab. Specifically, it would allow vessels harvesting WAG to deliver partial loads of live crab to Adak opportunistically; when the markets

and the commercial airline are available. While the processing plant in Adak does not currently have the capacity to accept and process a full offload from the catcher vessels (CVs) prosecuting this fishery, the processor can accept small deliveries of live crab to be packed and shipped by the commercial airline. Relaxing the full offload regulation for this specific fishery could allow vessels a better opportunity to supply a small delivery of WAG to Adak without compromising the economic viability of the whole fishing trip for the harvester. It would permit vessels harvesting WAG to do partial deliveries and continue harvesting crab before fully offloading at a processor that could accommodate the full volume of crab onboard these CVs.

This action was specifically identified for the WAG fishery due to 1) the remote and economically challenging characteristic of the fishery, 2) the possibility of mutual benefits to harvesters, the local processor, and the community, and 3) consistency with previous Council action that intended to encourage entrepreneurial activity related to fisheries in the Western Aleutian Islands. Beginning in 2011/2012, regulations began allowing for an exemption from the West-designated delivery requirement for WAG due to the lack of processing availability in this region. The intent of this designation was to induce the development of processing in the region, when such development is feasible. Although regional delivery exemptions may still be necessary, this action is consistent with the original intent to facilitate local crab processing. The Council is considering regulatory flexibility in order to provide opportunity for market expansion potentially benefiting harvesters, the city of Adak, and the consuming public.

4.5 Objectives of Proposed Action and its Legal Basis

The principle objective of the proposed regulatory change is to minimize a regulatory burden by allowing vessels participating in the WAG fishery to continue fishing after offloading a portion of their retained catch. This action would be consistent with National Standard 7 and 8 of the Magnuson-Stevens Act, as well as being consistent with the intent of previous Council action.

Under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Secretary of Commerce (NMFS Alaska Regional Office) and the North Pacific Fishery Management Council have the responsibility to prepare fishery management plans and associated regulations for the marine resources found to require conservation and management. NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine fish, including the publication of Federal regulations. The Alaska Regional Office of NMFS, and Alaska Fisheries Science Center, research, draft, and support the management actions recommended by the Council. The Bering Sea and Aleutian Islands (BSAI) king and Tanner crab fisheries are managed under the Fishery Management Plan for King and Tanner crab of the BSAI Management Area.

The proposed action would not represent an amendment to this the fishery management plan. Changes from the action alternative would only be made to Federal regulations.

4.6 Number and Description of Directly Regulated Small Entities

This section considers the number of directly regulated entities that are classified as small entities based on the definitions in Section 4.3. The RFA requires a consideration of affiliations between entities for the purpose of assessing if an entity is small. There is not a strict one-to-one correlation between vessels and entities; many persons and firms are known to have ownership interests in more than one vessel, and many of these vessels with different ownership, are otherwise affiliated with each other.

The entities directly regulated by this action are those entities that participate in harvesting of WAG: vessels, certain QS holders, and IFQ holders. Regulatory changes from the proposed action alternative would not directly include PQS holders, IPQ holders or communities.

Two vessels were active in the 2014 WAG fishery. These vessels received the majority of their revenue from finfish from 2012 through 2014. Both vessels are members of a cooperative that exceeds the 19 million revenue threshold for a finfish entity. Therefore even using the definition of a finfish harvesting entity, as described in Section 4.3, they are not considered small entities.

The number of quota shareholders for different types of WAG harvesting quota are listed in Table 3-3. Of the shareholders listed, at least three of the entities holding owner shares are known to be "large entities". The remaining eleven owner QS holders and eight crew QS holders are assumed to be "small entities".

Nevertheless, the only regulatory change from the proposed action alternative would exempt the directly regulated entities from a certain provision. Therefore, no directly regulated entities are expected to be adversely impacted by the proposed action.

4.7 Recordkeeping and Reporting Requirements

The state recommended that the entities regulated by the proposed action alternative increase the use of logbooks to document pot strings that are associated with partial offloads in order to aid ADF&G in accurately tracking effort information. However, ADF&G does not recommend this increase in reporting effort as a regulatory change. There are no proposed changes to Federal reporting or record-keeping requirements in the action alternative.

4.8 Federal Rules that may Duplicate, Overlap, or Conflict with Proposed Action

No relevant Federal rules have been identified that would duplicate or overlap with the any of the alternatives. Some current Federal regulations would need modification to if the Council chose to implement the action alternative. These regulatory changes are described in Section 2.2. This section will be updated after the Council identifies a preferred alternative.

4.9 Description of Significant Alternatives to the Proposed Action that Minimize Economic Impacts on Small Entities

An IRFA also requires a description of any significant alternatives to the proposed action(s) that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. At this point no action alternatives have been proposed. This section will be updated after the Council identifies a preferred alternative.

5 Preparers and Persons Consulted

Contributors

Sarah Marrinan, NPFMC
Jon McCracken, NPFMC
Karla Bush, ADF&G
Michael Fey, AKFIN
Rachel Baker, NOAA NMFS
Brent Pristas, NOAA OLE
Heather Fitch, ADF&G
Wayne Donaldson, ADF&G

Persons Consulted

Linda Kozak, Golden King Crab Coalition
Dave Frasier, Adak Community Development Corporation
Clem Tillion, Adak Community Development Corporation

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Appendices

Adak Community Development Corporation

PO Box 1943 Adak, Alaska 99546
(907) 592-2335

January 27, 2015

Dan Hull, Chairman NPFMC
605 W. 4th Avenue. Suite 306
Anchorage, Alaska 99501-2252

Re: E-1 Staff Tasking – Partial Offload of WAG Crab

Dear Chairman Hull,

ACDC supports the Golden King Crab Coalition proposal requesting an exemption from the offload requirements to facilitate the ability of vessels harvesting crab in the Western Aleutians (WAG) to sell amounts of crab in Adak that can be shipped out live on Alaska Airlines.

The current requirement for offloading all crab prior to resuming a fishing trip limits the ability to take advantage of the higher value live market opportunities. As such it constrains the ability of ACDC to maximize the value of the Adak Community Allocation of WAG crab. Likewise it undermines the purpose of the regional landing requirements for WAG crab.

Thank you for your consideration of our comment on this issue.

Sincerely,



dave fraser
ACDC

GOLDEN KING CRAB COALITION
Linda Kozak – Consultant
P. O. Box 2684 – Kodiak, Alaska 99615
Office 907-486-8824 – Cell 907-539-5585

Date: January 27, 2015

To: Mr. Dan Hull, Chairman
North Pacific Fishery Management Council

From: Linda Kozak

Subject: E-1 Staff Tasking

I am writing on behalf of the Golden King Crab Coalition, which represents the harvesters who fish for golden king crab in the Aleutian Islands. We are requesting the Council to address an issue with the CR crab landing requirements as stated in 680.7 (b) (3). The current regulation states that when a vessel begins to offload CR crab, they must complete the offload prior to resuming harvesting crab.

We are requesting an exemption from the offload requirements to facilitate the ability of vessels harvesting crab in the Western Aleutians (WAG) to sell amounts of crab in Adak that can be shipped out live on Alaska Airline flights which has a 10,000 - 20,000 lb. capacity per flight depending on the configuration of the aircraft.

Servicing the live crab market provides a price premium to the vessel.

Requiring the vessel to fully offload larger amounts than can be shipped out based on the airlines flight schedule or the live holding capacity of the plant, limits the ability of the harvest vessel and the processor to maximize the live market potential.

If the vessel has more crab than the processor can take a one time, the vessel is forced to either forego the live market opportunity or make a trip to Dutch to offload the balance before resuming fishing.

Imposing a full offload requirement adds expenses for the boat. It undermines the business model of the new operator of the Adak plant and reduces the value of the Adak Community Allocation to ACDC.

Adak is ideally situated for flying out live crab because Alaska Airlines currently schedules a 737 twice a week with an empty freight back haul to Anchorage. The Essential Air Service contract with Alaska Airlines comes up again this year and the backhaul freight from shipping live crab could be critical to their decision whether to continue serving Adak. Having this service to the community of Adak is critical.

The ideal situation would be for the vessel to make frequent (bi-weekly) deliveries of amounts that the plane can carry out. Since the vessel's catch (and tank) capacity is greater than the plane's capacity, the vessel would build up an inventory of crab that would not be able to be marketed live. The optimal scenario this season would be to make a few small deliveries into Adak until they had enough crab to justify a trip to Dutch. To do this the boat uses one tank just for crab to be delivered for live shipment and uses the other tanks to build up enough volume to justify the trip to Dutch.

It's hard to see what rational purpose a prohibition on partial offloads serves in the WAG fishery. The vessel has a fixed amount of quota pounds to deliver for the season and as long as they deliver all of their catch by the end of the season in whatever combination of full or partial deliveries the catch accounting comes out the same. There is no requirement for frequency of deliveries or on the length of a fishing trip prior to making a delivery, so there is no added benefit of a requirement to fully offload before resuming fishing.

The response to Comment 210 in the Final rule states: "None of the regulations in this rule preclude any crab product form, including live crab, from being produced or shipped..." However, in the real world, a live crab operation in Adak in the WAG fishery depends on the flexibility to deliver small partial loads coordinated with the airline's capacity.

We are requesting that the Council initiate a regulatory amendment to modify the "Prohibition" at *680.7(b) Landing CR crab.... (3) Resume fishing for CR crab or take CR crab onboard a vessel once landing has commenced and until all CR crab are landed."*

The modification would exempt WAG crab landed in the west region from the partial offload prohibition and provide the necessary flexibility to develop the live crab shipments.

Thank you for reviewing and considering this request.

CITY OF ADAK, ALASKA

VIA ELECTRONIC MAIL

January 27, 2015

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Chairman
North Pacific Fishery Management Council
Npfmc.comments@noaa.gov

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We have the distinctive asset of having the only airport in the Aleutians served by a national air carrier, Alaska Airlines, utilizing jet aircraft under the Essential Air Service program. For years the City, community and processing plant have sought ways to maximize the capacity of the jet aircraft, especially on the backhaul capacity from Adak to Anchorage. We seek these capacity utilizations in order to reduce or potentially eliminate the amount of subsidy required from the U.S. Department of Transportation.

Recently the City has become integrally involved with the success of the Adak processing plant, notably with the investment in acquiring the plant's equipment during an auction in 2013. We have recently completed a deal with a new, entrepreneurial processor that has the potential to add significant value to the resources coming across the docks.

The new plant operator successfully completed several test shipments of live crab and is working with Alaska Airlines to ensure essential capacity is maintained and available for this opportunity. Unfortunately, the aforementioned regulation brought to the forefront an issue that will jeopardize the success of this venture and our goal of ensuring the sustainability of the Essential Air Service for Adak. Without the service provided by Alaska Airlines, the community would be irreparably harmed and the costs to both the community and the Essential Air Service program would substantially increase, if bids from 2012 were any indication of cost and impact to Adak.

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Post Office Box 2011 • Adak, Alaska 99546 • Tel: 907.592.4500 • Fax: 907.592.4262
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The current plant operator does not have the capacity to accept a full offload of a crab-harvesting vessel. While this will change as the operator succeeds in their efforts, this investment will be long-term, as it should be. Having seen the impact of the regulation, we find the reasoning difficult to justification for this regulation, for example, a vessel delivering a premium product to Adak, in order to maximize the value of the product would be unable to operate efficiently, as multiple trips would have to be made to Dutch Harbor. This defeats the entire purpose of maximizing the value of the product, especially for the community allocation, managed by the Adak Community Development Corporation.

We hope the NPFMC will take into consideration a regulatory amendment to modify 680.7(b)(3) regulation to allow an exemption to the "prohibition", for WAG crab landed in the west region. The City, in conjunction with the Adak Community Development Corporation, believes by making this adjustment, we will have the flexibility to develop the live crab shipment program that will provide maximum value to the fishery and the community, utilizing the assets Adak has acquired.

We thank you for your time and hope you will consider our request.

Sincerely,



Layton J. Lockett
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