



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

July 19, 2011

MEMORANDUM FOR: The Record

FROM: James W. Balsiger, Ph.D.
Administrator, Alaska Region *John Mordt For: JB*

SUBJECT: Categorical Exclusion for a Proposed Rule to implement
Amendment 30 to the Fishery Management Plan for Bering Sea
and Aleutian Islands King and Tanner Crabs – RIN 0648 – AX47

NAO 216-6, Environmental Review Procedures, requires all proposed actions to be reviewed with respect to environmental consequences on the human environment. This memorandum summarizes the determination that a Proposed Rule to implement Amendment 30 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs – RIN 0648 – AX47 qualifies to be categorically excluded from further NEPA review.

Description of the action:

Under the crab rationalization program, harvesters receive annual allocations of IFQ that provide an exclusive privilege to harvest a specific number of pounds of crab from a fishery. Similarly, crab processors were issued processor quota share that yields annual IPQ. A portion of the IFQ issued is subject to regional delivery requirements, and must be delivered to processors with an equivalent amount of IPQ available.

Because harvesters holding IFQ are required to deliver to processors holding IPQ for a specific crab fishery within a specific geographic region, it is possible that this requirement could adversely affect price and delivery negotiations among harvester and processors. To address potential price and delivery disputes that may arise between IFQ holders and IPQ holders, the Program includes an arbitration system to fairly and equitably resolve price, delivery terms, performance standards, and other disputes in the event that IFQ and IPQ holders are unable to reach agreement on those terms.

To facilitate the arbitration proceedings, the arbitration system establishes a series of contractual requirements that IFQ and IPQ holders must meet that dictate how the arbitration system will function. These contracts include requirements to hire: (1) a market analyst who provides a pre-season market report of likely market conditions for each crab fishery to aid in price negotiations and arbitrations; (2) a formula arbitrator who prepares a non-binding price formula that



describes the historic division of first whole-sale values among harvesters and processors that can be used in price negotiations and arbitrations, and (3) a contract arbitrator who reviews the positions of the parties during an arbitration proceeding and issues a binding decision based on a last-best offer form of arbitration. As the Program has progressed, it became clear that the existing requirements for the timing and content of the market report and non-binding price formula limited the effectiveness of the arbitration system.

The proposed action would modify four aspects of the arbitration system to improve its effectiveness by: (1) allowing IFQ and IPQ holders to establish contracts requiring the preparation of market reports and non-binding price formulas only if a crab fishery is open; (2) modifying the timeline for release of the non-binding price formula for the western Aleutian Islands golden king crab (WAG), and eastern Aleutian Islands golden king crab (EAG) fisheries; (3) modifying the information used and timing for release of the market report; and (4) clarifying the authority of market analyst, formula arbitrator, and other parties involved in the administration of the arbitration system. This action proposes to modify aspects of the arbitration system to improve its effectiveness by ensuring that the most timely and comprehensive price data are made available to IFQ and IPQ holders.

Effects of the action:

The proposed action would have no effect on the natural or physical environment that was not already considered in the EIS prepared for the Crab Rationalization Program. All of the directly regulated small entities are expected to benefit from this action. Modifying the arbitration system would provide more timely and useful data to both IFQ and IPQ holders to aid in price negotiations. The economic impacts of this action are fully analyzed in the Regulatory Impact Review and Initial Regulatory Flexibility Analysis prepared for Amendment 30 and its implementing regulations.

The environmental impacts of the Crab Rationalization Program were analyzed in the Bering Sea Aleutian Islands Crab Fisheries Final Environmental Impact Statement (EIS). Due to the nature of this action, it is not predicted to have additional impacts beyond those identified in the EIS. Effectively, this action would modify the timing and preparation of specific documents that are currently required under the Program in a manner which has been analyzed in the EIS and would not have effects that differ from the current management. This proposed action would not be anticipated to significantly affect delivery patterns or otherwise change the harvesting and processing of crab species in ways not previously analyzed in the alternatives provided in the EIS. The EIS concludes that for all of the components of the environment analyzed, the effects of the Crab Rationalization Program are insignificant based on the best available scientific information. This proposed action would not have an environmental impact different from the effects of the Crab Rationalization Program, let alone a significant environmental impact. No new significant information is available that would change these determinations in the EIS.

Categorical exclusion:

This action would not result in any changes to the human environment. As defined in Sections 5.05b and 6.03a.3(b)(1) of NAO 216-6, 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 such, it is categorically excluded from the need to prepare an Environmental Assessment or an EIS.

CC: AKR NEPA Coordinator
NOAA NEPA Coordinator