

**216.505–70 Orders under multiple award contracts.**

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(d) When using the procedures in this subsection—

(1) The contracting officer should keep contractor submission requirements to a minimum;

(2) The contracting officer may use streamlined procedures, including oral presentations;

(3) If only one offer is received, the contracting officer shall follow the procedures at 215.371.

(4) The competition requirements in FAR part 6 and the policies in FAR subpart 15.3 do not apply to the ordering process, but the contracting officer shall consider price or cost under each order as one of the factors in the selection decision; and

(5) The contracting officer should consider past performance on earlier orders under the contract, including quality, timeliness, and cost control.

15. Amend section 216.506 by adding paragraph (S–70) to read as follows:

**216.506 Solicitation provisions and contract clauses.**

\* \* \* \* \*

(S–70) Use the provisions at 252.215–70WW, Notice of Intent to Resolicit, and 252.215–70XX, Only One Offer, as prescribed at 215.408(3) and (4), respectively.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

16. Add new section 252.215–70WW to read as follows:

**252.215–70WW Notice of Intent to Resolicit.**

As prescribed at 215.408(3), use the following provision:

Notice of Intent to Resolicit (Date). This solicitation provides offerors fewer than 30 days to submit proposals. In the event that only one offer is received in response to this solicitation, the Contracting Officer may cancel the solicitation and resolicit for an additional period of at least 30 days in accordance with 215.371(c)(1)(ii).

(End of provision).

17. Add new section 252.215–70XX to read as follows:

**252.215–70XX Only One Offer.**

As prescribed at 215.408(4), use the following provision:

Only One Offer (Date).

(a) The provision at FAR 52.215–20, Requirements for Certified Cost or Pricing Data and Data other Than Certified Cost or Pricing Data, with any

alternate included in this solicitation, does not take effect unless the Contracting Officer notifies the offeror that only one offer was received.

(b) Upon notification that only one offer was received, the offeror shall provide any data requested by the Contracting Officer in accordance with FAR 52.215–20.

(c) If negotiations are conducted, the negotiated price should not exceed the offered price.

(End of provision).

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 680**

**RIN 0648–AX47**

**Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program (CR Program) allocates BSAI crab resources among harvesters, processors, and coastal communities. Amendment 30 would amend the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) and the CR Program to modify procedures for producing and submitting documents that are required under the arbitration system to resolve price, delivery, and other disputes between harvesters and processors. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be submitted on or before September 23, 2011.

**ADDRESSES:** Send comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by “RIN 0648–AX47”, by any one of the following methods:

• **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov>.

• **Mail:** P.O. Box 21668, Juneau, AK 99802.

• **Fax:** (907) 586–7557.

• **Hand delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of Amendment 30, the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), the categorical exclusion prepared for this action, and the Environmental Impact Statement (EIS) prepared for the Crab Rationalization Program may be obtained from the NMFS Alaska Region at the address above or from the Alaska Region Web site at <http://www.fakr.noaa.gov/sustainablefisheries.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Forrest R. Bowers, 907–586–7240.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment.

The king and Tanner crab fisheries in the exclusive economic zone of the BSAI are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108–199, section 801). Amendments 18 and 19 to the FMP amended the FMP to include the CR Program. Regulations

implementing the FMP, including the CR Program are located at 50 CFR Part 680.

Under the CR Program, NMFS issued quota share (QS) to holders of License Limitation Program (LLP) licenses and crew onboard vessels. Each year QS yields an exclusive harvest privilege for a portion of the total allowable catch called individual fishing quota (IFQ). Several types of QS are issued; Catcher Vessel Owner (CVO) QS was issued to owners of catcher vessels based on their participation in CR Program fisheries during designated qualifying years.

NMFS also issued processor quota share (PQS) under the CR Program. Each year PQS yields an exclusive privilege to process a portion of the IFQ. This annual exclusive processing privilege is called individual processor quota (IPQ). CVO QS yields Class A and Class B IFQ. Class A IFQ is required to be delivered to a processor with matching IPQ within specific geographic regions. Class B IFQ can be delivered to any processor in any geographic region. Ninety percent of the IFQ derived from CVO QS is Class A IFQ, and the remaining 10 percent is Class B IFQ. These requirements ensure that catch continues to be delivered to processors and communities with historic investment in the fisheries.

Because harvesters holding Class A 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 harvesters and processors. To address potential price and delivery disputes that may arise between Class A 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 Class A 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 Class A IFQ and IPQ holders must meet. 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 CR Program has progressed, it has become clear that the existing requirements for the timing and content of the market report and non-binding price formula limit the effectiveness of the arbitration system. The timing for the preparation of these documents did not allow the most recent publically available market data to be considered when price negotiations were conducted, thereby limiting their utility.

Amendment 30, if approved, would modify four aspects of the arbitration system to improve its effectiveness by: (1) Allowing Class A 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 the market analyst, formula arbitrator, and other parties involved in the administration of the arbitration system. The forthcoming proposed rule would implement the Council's recommendation under Amendment 30.

Public comments are being solicited on proposed Amendment 30 through the end of the comment period (see **DATES**). NMFS intends to publish a proposed rule in the **Federal Register** for public comment that would implement Amendment 30, following NMFS' evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the close of the comment period on Amendment 30 to be considered in the approval/disapproval decision on Amendment 30. All comments received by the end of the comment period on Amendment 30, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 30. Comments received after the end of the public comment period for Amendment 30, even if received within the comment period for the proposed rule, will not be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 20, 2011.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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