

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

RIN 0648–BC25

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

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: NMFS announces that the North Pacific Fishery Management Council (Council) has submitted Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) for review by the Secretary of Commerce (Secretary). Amendment 42 would revise the annual economic data reports (EDRs) currently required of participants in the Crab Rationalization Program (CR Program) fisheries. The EDRs include cost, revenue, ownership, and employment data the North Pacific Fishery Management Council (Council) and NMFS use to study the economic impacts of the CR Program on harvesters, processors, and affected communities. Amendment 42 is necessary to eliminate redundant reporting requirements, standardize reporting across participants, and reduce costs associated with the data collection. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Comments on the amendment must be submitted on or before May 13, 2013.

ADDRESSES: Send comments to Glenn Merrill, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by NMFS docket number NOAA–NMFS–2012–0111, 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>. To submit comments via the eRulemaking Portal, first click the “submit a comment” icon, then enter NOAA–NMFS–2012–0111 in

the keyword search. Locate the document you wish to comment on from the resulting list and click on the “submit a comment” icon on that line.

- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.

- *Hand delivery to the Federal Building:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, telephone number) submitted voluntarily by the sender will 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.

Electronic copies of Amendment 42, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis, the categorical exclusion prepared for this action, and the Environmental Impact Statement prepared for the Crab Rationalization Program may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://www.alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, 907–586–7228 or karen.palmigiano@noaa.gov.

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. 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 Bering Sea and Aleutian Islands (BSAI) are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108–199, section 801). The Secretary of Commerce approved Amendments 18 and 19 to the FMP on November 19, 2004. NMFS published final regulations implementing the Crab Rationalization Program (CR Program) in 2005 (70 FR 10174, March 2, 2005). Regulations implementing the FMP, including the CR Program, are located at 50 CFR part 680.

The CR Program is a limited-access system that allocates crab managed under the FMP among harvesters, processors, and coastal communities. Each year, the quota share (QS) issued to a person yields an amount of individual fishing quota (IFQ), which is a permit providing an exclusive harvesting privilege for a specific amount of raw crab pounds, in a specific crab fishery, in a given season. The size of each annual IFQ allocation is based on the amount of QS held by a person in relation to the total QS pool in a crab fishery. For example, a person holding QS equaling 1 percent of the QS pool in a crab fishery would receive IFQ to harvest 1 percent of the annual total allowable catch (TAC) in that crab fishery.

As part of the CR Program, the Council recommended and NMFS implemented a comprehensive economic data collection program. The CR Program requires participants to complete an annual economic data report (EDR) based on harvesting and processing activities for that fishing season. The Council and NMFS use the EDR to assess the success of the CR Program and develop amendments to the FMP necessary to mitigate any unintended consequences of the CR Program. An annual EDR is currently required for four categories of participants in the CR Program fisheries: catcher vessels, catcher/processors, shoreside processors, and stationary floating crab processors.

The information collected in the EDR is intended to provide comprehensive data to assist the Council and analysts in understanding the costs and benefits of the CR Program on harvesters' and processors' crab operations. Specifically, the Council and analysts use the data to examine changes in usage of the crab, excess harvesting and processing capacity, economic returns, variable costs and revenues, economic efficiency, and the stability of harvesters, processors and coastal communities. Data submission is mandatory (see regulations at § 680.6(a)). The EDR Program is administered by NMFS through contracts with the Pacific States Marine Fisheries Commission (PSMFC). NMFS collects fees from CR Program participants to recover the costs of administering the EDR (see regulations at § 680.44 for cost recovery fee collection under the CR Program). Section 304(d)(2) of the Magnuson-Stevens Act requires that NMFS collect fees necessary to recover the actual costs directly related to data collection of limited access privilege programs, such as the CR Program.

Since the beginning of the CR Program, EDRs containing cost, revenue, ownership, and employment data have been collected by NMFS annually from the harvesting and processing sectors. This comprehensive approach to collecting data was implemented because the data collection programs in place at the time the CR Program began did not collect employment, cost, and sales information necessary to adequately examine how processing plants and vessels were being affected by the implementation of the CR Program. Collection of these data could help the Council understand the economic performance of crab fishermen, determine how this performance has changed after rationalization, and assess what aspects of these changes are specifically attributable to crab rationalization.

In 2010, the Council initiated an analysis to modify the EDR based on the results of its data quality review process and public comment received during the Council's 5-year review of the CR Program. As part of this analysis, the Council considered input from a Center for Independent Experts review of the data collection program that was completed in October 2011 (see Section 2.4.3 of the analysis for additional detail). In February 2012, the Council recommended Amendment 42 to the FMP to modify the EDR. This proposed rule would implement the Council's recommended changes to the EDR under Amendment 42. The proposed

modifications to the current EDRs are presented in the analysis for this action (see Section 2.2. of the analysis) and summarized below.

Amendment 42 to the FMP is the Council's solution to these issues that would increase the quality of data collected, as well as reduce the burden on the submitters. If approved, this action would also reduce the amount of data collected from each of the three sectors: catcher vessels, shoreside and stationary floating crab processors, and catcher/processors. The Council's objective is to collect data that can be accurately and reliably reported, and to only collect data that is unavailable through other data collection programs.

Annual Catcher Vessel Crab EDR

Much of the data requested on the current annual catcher vessel Crab EDR is available through other sources (e.g., eLandings data collected by NMFS contains information on the specific quota accounts debited during a landing). Further, the quality of some data currently collected is poor and results in limited usefulness of the data for analyses (e.g., estimates of bait used are known to be inaccurate and unreliable). The Council recommended scaling back the data collection in the EDR, including eliminating the data collected in some categories so that only data that could be accurately and reliably collected would be required.

The proposed catcher vessel EDR would continue the collection of revenue data, including landings by share type by crab fishery (pounds and revenue), and market-value or negotiated-price transfers of IFQ and community development quota (CDQ) received for harvest on the vessel during the calendar year, by fishery and harvest quota permit type (pounds and revenue). Data on payments to captains and crew would still be collected by fishery. Crew license and Commercial Fisheries Entry Commission (CFEC) permit numbers would also continue to be collected to facilitate analysis of demographic distribution of crew benefits. The proposed EDR would also require the reporting of vessel costs such as bait, food, and provisions purchased by crab fishery. This is slightly different from the current forms, which require submitters to include the quantity of these items used versus what is purchased. This new data on the quantity of items purchased would provide some understanding of expenditures and would be more easily reported by submitters than the quantity of items used.

Annual Shoreside Processor/Stationary Floating Processor Crab EDR

Amendment 42 proposes an Annual Shoreside Processor/Stationary Floating Processor Crab EDR (processor EDR), which combines the Annual Shoreside Processor Crab EDR and the Annual Stationary Floating Processor Crab EDR into a processor EDR. The proposed processor EDR would eliminate several elements from the current data collections. Most of the deleted elements represent production data, which are similar to data found within the State of Alaska's Commercial Operators Annual Report (COAR). Crab processors must submit the COAR annually and report processing and plant costs in it. The production data that is not available through other sources could be estimated by NMFS based on landings data. Therefore, the proposed exclusion of these data from the processor EDR would not affect the analysis of EDR data and may decrease the submitter's time burden required to fill in the form.

Revenue data collected under the proposed processor EDR would remain essentially the same. However, the proposed processor EDR would not require sales data by crab size or grade. Packing box sizes would continue to be reported by categories. Revenues from custom processing (an arrangement under which a person processes crab on behalf of another) would be added. Reporting of labor data (i.e., man-hours, total processing labor payments, and crab processing employees by residence) would not change from the status quo. Custom processing services purchased would be reported with some differences from the status quo (i.e., excluding crab size and grade and box size). Crab purchases by share type would still be collected.

Annual Catcher/Processor Crab EDR

Catcher/processors participate in both harvesting and processing. Therefore, the proposed catcher/processor EDR includes elements for the collection of harvesting and processing information.

Amendment 42 would eliminate some of the current reporting requirements for catcher/processors, which have been deemed to be inaccurately reported. Several elements would remain, including sales by species by packing box size to affiliated entities and unaffiliated entities, custom processing revenue and production, payments to captains and crews, crew license, CFEC permit numbers and residence information, custom processing services purchased, and crab purchases by share type. All this information provides data

that is not found in other data collections and is useful to analysts when assessing the CR Program.

Public comments are being solicited on proposed Amendment 42 through the end of the comment period (see **DATES**). Public comments on the proposed FMP amendment must be received by the close of the comment period on Amendment 42 to be considered in the approval/disapproval decision on Amendment 42. All

comments received by the end of the comment period, whether specifically directed to the FMP amendment or the proposed rule will be considered in the approval/disapproval decision on Amendment 42. Comments received after the end of the public comment period for Amendment 42, even if received within the comment period for the proposed rule, will not be considered in the approval/disapproval decision on the FMP 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: March 7, 2013.

Kara Meckley,

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

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