

to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast and for the incorporation of data from the Mexican sardine fishery. Information on the fishery and the stock assessment are found in the report *Assessment of Pacific Sardine Stock for U.S. Management in 2006* (see ADDRESSES).

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of sardines age one and above.* For 2006, this estimate is 1,061,391 mt.
2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.
3. *The portion of the sardine biomass that is in U.S. waters.* For 2006, this estimate is 87 percent. It is based on the average larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of aerial fish-spotters.

4. *The harvest fraction.* This is the percentage of the biomass above 150,000 mt that may be harvested. The fraction varies from 5 to 15 percent, depending on current ocean temperatures. The higher fraction is used for warmer ocean temperatures, which favor production of Pacific sardine, and the lower fraction is used for cooler temperatures. Based on the last three seasons of sea surface temperatures at Scripps Pier, California, a fraction of 15 percent was used for 2006.

Based on the estimated biomass of 1,061,391 mt and the formula in the FMP, a harvest guideline of 118,937 mt was determined for the fishery beginning January 1, 2006.

The recently established Amendment 11 to the CPS FMP changed the framework for the annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast and set up a new long-term allocation scheme. Based on this new long-term allocation scheme, 35 percent of the harvest guideline is released coastwide on January 1; 40 percent of the harvest guideline, plus any portion not harvested from the initial 35 percent is released coastwide on July 1; and on September 15 the remaining 25 percent, plus any portion not harvested from the earlier releases is then available for harvest.

If the total harvest guideline or these apportionment levels for Pacific sardine are reached at any time, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme or the beginning of the next

fishing season. The Regional Administrator shall announce in the Federal Register the date of the closure of the directed fishery for Pacific sardine.

Normally, an incidental landing allowance of sardine in landings of other CPS is set at the beginning of the fishing season. The incidental allowance would become effective if the harvest guideline is reached and the fishery closed. A landing allowance of sardine up to 45 percent by weight of any landing of CPS is authorized by the FMP. An incidental allowance prevents fishermen from being cited for a violation when sardine occur in schools of other CPS, and it minimizes bycatch of sardine if sardine are inadvertently caught while fishing for other CPS. Sardine landed with other species also requires sorting at the processing plant, which adds to processing costs. Mixed species in the same load may damage smaller fish.

#### Classification

These specifications are issued under the authority of, and NMFS has preliminarily determined that it is in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and the regulations implementing the FMP.

This final rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: June 28, 2006.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 680

[Docket No. 060420106-6163-02; I.D. 041706B]

RIN 0648-AU44

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources; Crab Economic Data Reports

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement revision of the annual economic data reports (EDRs) submission deadline from May 1 to June 28. This action is necessary to provide adequate time for crab harvesters and processors participating in the Bering Sea and Aleutian Islands Crab Rationalization Program (CR Program) to submit accurate and complete data on an EDR for the previous fishing year. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective on July 5, 2006.

**ADDRESSES:** Copies of the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this action are available from: NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh, Records Officer, and on the Alaska Region, NMFS, website at <http://www.fakr.noaa.gov> or by calling the Alaska Region, NMFS, at 907-586-7228.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, Alaska Region at the above address, and by email to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7008 or e-mail at [patsy.bearden@noaa.gov](mailto:patsy.bearden@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The CR Program includes a comprehensive economic data collection requirement to help the North Pacific Fishery Management Council

and NMFS assess the success of the CR Program and develop amendments to the CR Program. An EDR contains cost, revenue, ownership, and employment data. These data are collected annually from the crab harvesting and processing sectors, including owners and lessees of catcher vessels, catcher/processors, and owners and operators of shoreside and floating processors. The data are used to study the economic impacts of the CR Program on harvesters, processors, and communities. Data submission is mandatory.

An individual EDR is required for both historical data and annual data and for each of four categories of participants in the CR Program fisheries: catcher vessel, catcher/processor, stationary floating crab processor, and shoreside crab processor. This rule applies only to the annual EDR due date.

#### Need for Action

Originally, May 1 was chosen as the EDR submission deadline because NMFS estimated that data records would be readily available after the April 15 income tax filing deadline. However, several individuals have reported that a May 1 deadline for annual EDRs does not allow enough time for preparers to match EDR data to comprehensive and accurate financial documentation, such as financial statements and tax returns. When preparers request tax extensions, tax returns and statements are seldom complete by May 1. Even if taxes were submitted by April 15, EDR preparers have only 2 weeks to gather tax forms from preparers, complete the EDRs, and file them by May 1. This short period leaves little time to complete EDR data entry fields and could adversely affect the quality of data reported on EDRs.

The EDR data are used to study the economic impacts of the CR Program on harvesters, processors, and communities. Extending the EDR submittal deadline will result in improved data quality (improved utility, objectivity, and integrity of the data); improved usefulness of the data to its intended users; help to ensure that accurate, reliable, and unbiased information is provided; and ease the submitters' burden to timely compile and submit the information.

Timely submission of a completed annual EDR is a condition to receiving any annual CR Program crab permit from the NMFS Restricted Access Management (RAM) Program office. Providing additional time to file EDRs should not delay issuance of annual CR Program individual fishing and processing permits, Registered Crab

Receiver permits, Federal Crab Vessel permits, and cooperative permits. RAM will issue all annual CR Program crab permits approximately one month after the June 28 deadline.

#### Response to Comments on the Proposed Rule (71 FR 25808, May 2, 2006)

NMFS received 2 letters of comment on the proposed rule. The following summarizes and responds to these comments.

*Comment 1:* A commenter contended that industry members provide NMFS with inaccurate and biased information. The commenter also stated that NMFS must do more to ensure accuracy.

*Response:* Industry members have significant incentives to submit accurate and complete information. The economic data collection program requires submitters' participation in audits. Anyone who submits fraudulent or inaccurate data risks civil and criminal enforcement penalties.

*Comment 2:* A commenter stated support for the reporting deadline change, observing that it is the only way to avoid having most of the industry out of compliance.

*Response:* NMFS agrees.

NMFS has considered the comments, but determined they do not provide any reason to reconsider or change the proposed rule.

#### Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this final rule is necessary for the conservation and management of the BSAI crab fisheries. The Regional Administrator also has determined that this final rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS prepared a final regulatory flexibility analysis (FRFA) as required by section 603 of the Regulatory Flexibility Act. The FRFA describes the economic impact this rule would have on small entities. A description and objective of the action and the legal basis for this action are contained at the beginning of the preamble and in the **SUMMARY** section of this document. A copy of the FRFA is available from NMFS (see **ADDRESSES**). The following summarizes the FRFA.

The FRFA evaluates the annual EDR submittal deadline revision impacts on small entities. In addition, the FRFA addresses the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 612).

The FRFA specifically addresses the section 604(a) requirements.

The EDRs require data from small entity fishing operations as identified by the Small Business Administration. This action applies to 311 entities, consisting of 275 catcher vessels, 12 catcher/processors, 20 shoreside processors, and 4 stationary floating crab processors. This action also applies to 6 Western Alaska Community Development Quota (CDQ) groups, which are considered small entities. Each of these CDQ groups is organized as a not-for-profit entity, and none is dominant in its field. Approximately 238 small entities own crab harvesting vessels or crab catcher/processors. Eight processors qualify as small entities.

Compared with the current fishery, the number of small entities required to submit EDRs is anticipated to decrease dramatically over time. This decrease could result from BSAI crab operations consolidation, BSAI crab buyback program fleet reduction, and cooperatives formation. Most of the EDR historical data were collected during this first year of the CR Program as a one-time submission. After the submission of historical data, small entities continuing to participate in the crab fisheries are required to submit an annual EDR. The number of crab harvesting small entities is anticipated to shrink from pre-quota fishery numbers.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by the Office of Management and Budget (OMB) under Control Number 0648 0518. Public reporting burden per individual response is estimated to average 7.5 hours for annual catcher vessel EDRs; 12.5 hours for annual catcher/processor EDRs; 10 hours for annual stationary floating crab processor EDRs; and 10 hours for annual shoreside processor EDRs.

Response time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject

to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule does not duplicate, overlap, or conflict with other Federal regulations.

This action does not have any adverse impacts on regulated small entities.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive the 30-day delay in effective date under 5 U.S.C. 553(d)(3). The delay normally provides affected persons time to prepare for compliance with the requirements of the rule. The AA has determined that it is in the public interest that the date change take effect immediately. This final rule does not change existing regulatory requirements specifying EDR content, so affected persons will not require time to prepare for compliance with new substantive requirements regarding EDR content. This final rule extends the filing deadline, and affected persons do not

need additional time to prepare for compliance with the new deadline.

**Small Entity Compliance Guide**

NMFS will post a small entity compliance guide on the Internet at <http://www.fakr.noaa.gov> to satisfy the Small Business Regulatory Enforcement Fairness Act of 1996 which requires a plain language guide to assist small entities in complying with this rule. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 680**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 28, 2006.

**William T. Hogarth,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 680 as follows:

**PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

■ 1. The authority citation for part 680 continues to read as follows:

**Authority:** 16 U.S.C. 1862.

**§ 680.6 [Amended]**

■ 2. In the following table, for each of the paragraphs shown in the “Location” column, remove the phrase indicated in the “Remove” column and replace it with the phrase indicated in the “Add” column for the number of times indicated in the “Frequency per paragraph” column.

Location	Remove	Add	Frequency per paragraph
paragraphs (b)(1), (d)(1), (f)(1), and (h)(1)	May 1	June 28	2