

50 CFR Part 677

[Docket No. 950615155-5155-01; I.D. 060695A]

RIN 0648-A101

**North Pacific Fisheries Research Plan;
Crab Vessel Fee Exemption**

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to exempt certain crab catcher vessels from the 1995 fee-collection program authorized pursuant to the North Pacific Fisheries Research Plan (Research Plan). This exemption would respond to a request from the State of Alaska to conform the Research Plan to a recent change in its crab observer coverage requirements for catcher vessels participating in the Dutch Harbor and Adak area king crab fisheries, and would avoid a "double payment" by the affected vessels of both Research Plan fees and costs of the State required direct observer coverage. This proposed rule is consistent with the intent of the final rule implementing the Research Plan and is intended to facilitate Federal/State cooperative implementation of the crab and groundfish observer programs during the first year of the fee-collection program authorized under the Research Plan.

DATES: Comments on this proposed rule must be received by July 12, 1995.

ADDRESSES: Comments on this proposed rule may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802-1668; Attn: Lori J. Gravel.

Copies of the Research Plan and the Environmental Assessment/Regulatory Impact Review prepared for the Research Plan may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Susan Salvesson, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Research Plan became effective October 6, 1994 (59 FR 46126, September 6, 1994). A regulatory amendment was published in the **Federal Register** on January 9, 1995 (60 FR 2344), which clarified 1995 observer coverage

requirements and revised the definition of certain terms set out under § 677.2. The purpose for, and description of, the Research Plan are contained in the preamble to the final rule (59 FR 46126, September 6, 1994).

The Research Plan provides for the coordination of the crab observer program administered by the Alaska Department of Fish and Game (ADF&G) and the groundfish observer program administered by NMFS. Regulations implementing the Research Plan set out 1995 observer coverage requirements for the crab and groundfish fisheries (§ 677.10(a)).

The costs of implementing the Research Plan are financed by a fee assessment of either 2 percent of the exvessel value of all Research Plan fisheries or the actual costs of implementing the Research Plan, whichever is less (§ 677.11). Although the fee liability for a given amount of retained catch is divided equally between the processor and harvesting vessel, processors are responsible for collecting all fee assessments and for paying them bimonthly (§ 677.6(b)).

Regulations at § 677.6(b)(1) provide exemptions from fee assessments during 1995 for groundfish catcher vessels equal to or greater than 60 ft (18.3 m) length overall (LOA) and crab catcher vessels required to carry observers while participating in specified crab fisheries. This exemption is accomplished by reducing the processor's fee assessment for these vessels to one-half of the fee percentage established pursuant to § 677.11. These two sectors of the Research Plan fisheries were exempted, because they currently pay costs for observer coverage that are equal to or greater than amounts they would contribute under the 1995 Research Plan fee assessment program.

The 1995 observer coverage requirements for the king and Tanner crab fisheries of the Bering Sea and Aleutian Islands area are set out under § 677.10(a)(3). These requirements are intended to reflect existing ADF&G observer coverage requirements and to apply to all crab processor vessels and catcher vessels participating in specified crab fisheries.

In recent years, the number of processor vessels participating in the Adak and Dutch Harbor king crab fisheries has declined. At this time, the majority of the participating fleet is made up of catcher vessels, which currently are not required to carry observers. This has resulted in a loss of information necessary to manage the Adak and Dutch Harbor king crab stocks for sustained yield.

At its March 1995 meeting, the Alaska Board of Fisheries (Board) determined that additional observer coverage is needed for the catcher vessel fleet participating in these king crab fisheries. In addition to concerns about the reduced amount of observer data collected from the Dutch Harbor and Adak king crab fisheries, ADF&G staff also provided information that indicates that red king crab stocks in the Adak area are severely depressed and that the Adak fishery should not be opened unless adequate monitoring of the resource is provided through increased observer coverage on the catcher vessel fleet.

NMFS does not conduct crab surveys in the Adak and Dutch Harbor areas. Furthermore, crab resource assessments of these vast areas would be cost-prohibitive. The Board determined that observer coverage on all catcher vessels in the Adak and Dutch Harbor king crab fisheries, beginning with the September 1, 1995, opening of the brown king crab fishery, is the only means available to collect information sufficient to manage these stocks and allow a fishery. The Board requested the North Pacific Fishery Management Council (Council) to take action to incorporate this additional coverage under the Research Plan and exempt these vessels from 1995 Research Plan fee assessments to avoid a "double payment" of both Research Plan fees and the costs of State required direct observer coverage.

At its April 1995 meeting, the Council considered the Board's request, as well as testimony from ADF&G staff and persons representing the crab industry. The Council concurred with the Board's recommended action and requested NMFS to initiate rulemaking to revise 1995 crab observer coverage requirements set out under regulations implementing the Research Plan. The Council also requested NMFS to extend current provisions for exemption from the 1995 Research Plan fees (§ 677.6(b)(1)(iii)(B)) to include the above described fee exemptions for crab catcher vessels participating in the Adak and Dutch Harbor king crab fisheries.

Table 1 lists the number of vessels participating in the Dutch Harbor and Adak crab fisheries, the value of these fisheries and associated costs of increased observer coverage. The catcher vessels' portion of the 1995 fee based on value of retained catch would be 1 percent of the standard exvessel prices published in the final 1995 Research Plan specifications (59 FR 61556, December 1, 1994) multiplied by projected catch, or \$220,000. The projected observer coverage cost for these catcher vessels is almost 300

percent of the anticipated fee amount, or \$669,750.

TABLE 1.—TOTAL CATCH, STANDARD PRICE, VALUE, FEE

[1 percent of the value, observer days and cost for catcher vessels and catcher processor vessels participating in the Dutch Harbor and Adak king crab fisheries. Catcher vessel observer costs are based on an assumed cost per observer day equal to \$235]

	Dutch Harbor brown king crab	Adak brown king crab	Adak red king crab
Total catch (lbs)	1,500,000	5,000,000	500,000
Standard price	\$3/lb	\$3/lb	\$5/lb
Value	\$4,500,000	\$15,000,000	\$2,500,000
1% of value	\$45,000	\$150,000	\$25,000
No. processor vessels	0	3	3
No. catcher vessels (CVs)	15	25	15
CV observer days	900	1,500	450
CV observer cost	\$211,500	\$352,500	\$105,750

Table 1 indicates that, if all of the catch in the Dutch Harbor and Adak king crab fisheries were taken by crab catcher vessels, exempting these vessels from the 1995 fee-collection program pursuant to the request of the Board would reduce fee collections by \$220,000. In reality, catcher vessels would not take all of the catch, so the actual reduction in fees would be somewhat less than this value.

If the average catch per vessel is the same for catcher vessels and catcher processors, and if the projected numbers of catcher vessels and catcher processors are used to estimate the percent of catch that will be taken by catcher vessels, the catcher vessels would take about 91 percent of the catch, the fee exemption for these vessels would result in a \$200,000 reduction in total fee liabilities, and the cost to catcher vessels for observer coverage as a percent of their standard exvessel value would be about 3.3 percent with the fee exemption or about 4.3 percent without the exemption. NMFS does not anticipate that a \$200,000 reduction in 1995 fee liabilities would have a significant impact on the collection of sufficient funds necessary for full implementation of the Research Plan in the future.

Classification

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule would result in reduced costs to the 15 crab catcher vessels participating in the Adak and Dutch Harbor king crab fisheries. The reduced fee liability is expected to total

about \$200,000. As a result, a regulatory flexibility analysis was not prepared.

If this proposed action is adopted, it should be done as soon as possible, so that clear instructions may be sent out to the crab industry, which reflect the amended 1995 fee collection program authorized under the Research Plan. Delay in implementing the proposed fee exemption would result in payment of 1995 Research Plan fees, in addition to payment for observer coverage, by a sector of the crab catcher vessel fleet. Total costs could exceed 4 percent of the exvessel value of landed catch. This situation would constitute a "double payment" for observer services and is counter to the Council's intent for the 1995 fee collection program. NMFS is allowing an opportunity for public comment for a 15-day period to expedite final action, should NMFS approve it.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 677

Fisheries, Reporting and recordkeeping requirements.

Dated: June 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 677 is proposed to be amended as follows:

PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN

1. The authority citation for part 677 continues to read as follows:

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

2. In § 677.6, paragraph (b)(1)(iii)(A) is revised to read as follows:

§ 677.6 Research Plan fee.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(A) The round weight or round-weight equivalent of retained catch of red king crab or brown king crab harvested from ADF&G's Adak management area defined at 5 AAC 34.700, brown king crab harvested from ADF&G's Dutch Harbor management area defined at 5 AAC 34.600, *Chionoecetes tanneri* Tanner crab, *C. angulatus* Tanner crab, and *Lithodes cousei* king crab determined by the best available information received by the Regional Director since the last bimonthly billing period, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by one-half the fee percentage established pursuant to § 677.11 for the calendar year; plus

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3. In § 677.10, paragraph (a)(3) is revised to read as follows:

§ 677.10 General requirements.

(a) * * *

(3) *Requirements for vessel operators of Bering Sea and Aleutian Islands area king and Tanner crab.* An operator of a vessel that harvests or processes king or Tanner crab must have one or more State of Alaska-certified observers on board the vessel whenever king or Tanner crab are received, processed, or onboard the vessel in the Bering Sea and Aleutian Islands area if the operator is required to do so by Alaska State regulations at 5 AAC 34.035, 34.082, 35.082, or 39.645.

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