

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

[Docket No. 0910051335-0151-01]

RIN 0648-AY28

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

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to remove the Crab Rationalization Program requirements for catcher/processors to weigh all offloaded crab on a state-approved scale that produces a printed record and to submit a catcher/processor offload report. The purpose of this action is to reduce unnecessary paperwork burdens on the fishing industry. NMFS determined that these requirements are no longer necessary. This action promotes the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

DATES: Effective *September 16, 2010*.

ADDRESSES: Electronic copies of this rule, the Regulatory Impact Review (RIR), and the categorical exclusion memorandum may be obtained from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P. O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska to NMFS, Alaska Region; and by e-mail to OIRA_Submission@omb.eop.gov, or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. crab fisheries under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). The FMP was prepared by the North Pacific Fishery Management Council under the Magnuson-Stevens Act. Regulations implementing the FMP

appear at 50 CFR parts 679 and 680. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Background

The Crab Rationalization (CR) Program is a limited-access system that allocates crab managed under the FMP among harvesters, processors, and coastal communities. Prior to publication of this final rule, NMFS required that all crab harvested and processed by catcher/processors as individual fishing quota (IFQ) be weighed at sea prior to processing and that crab weights be reported to NMFS on an IFQ crab landings report (*see* § 679.5(e)(8)). The weights reported on the IFQ crab landings report were used to debit crab IFQ from a quota holder's account. In addition, catcher/processors were required prior to publication of this final rule to weigh the crab again when it is offloaded from the vessel and report this weight to NMFS on a catcher/processor offload report (*see* § 680.5(e)).

The original purpose of the offload report was to provide information so that NMFS could audit the IFQ crab landing reports. Completing this report required a crab catcher/processor to offload all processed crab product shoreside at a designated port and weigh that product on a scale approved by the state in which the crab is removed from the vessel. CR catcher/processors were required to complete the offload report when crab were offloaded from the vessel and to attach a scale printout showing gross product offload weight. The weight reported on the offload report included not only the weight of crab but also the weight of packaging, pallets, and glaze. While NMFS could make deductions for these items, the deductions created variance in the total weight of crab landed shoreside. For this reason, NMFS found it difficult to use the weights from the offload report to audit the weight obtained from the at-sea hopper scales as originally intended.

Advancements in at-sea reporting of crab catch (eLandings) and the improved reliability of the at-sea motion-compensated hopper scales have changed the need for CR catcher/processors to report offloads. Catcher/processors use eLandings to report total harvest of crab to NMFS weekly while at sea, which provides NMFS with up-to-date accounting of total crab harvested. Motion-compensated hopper scales provide reliable, independent estimates of the total catch by quota sector for all crab harvested.

Removal of the regulatory requirements for CR catcher/processors to weigh offloaded crab product and submit offload reports does not diminish NMFS' ability to verify reported CR crab catch weight. NMFS still requires that all crab be weighed at sea and scale weights of crab be submitted to NMFS on eLandings weekly reports. Alaska Department of Fish and Game observers are onboard crab vessels and have the opportunity to observe hopper scale activities for consistency with the regulatory requirement that vessels weigh all landed IFQ crab. NOAA Fisheries Office for Law Enforcement (OLE) uses eLandings weekly reports, the printouts from the hopper scales showing the total weight of crab harvested, and additional auditing methods to verify CR quota accounting instead of using the catcher/processor offload reports. Further, even without the requirement to weigh and report the gross weight of offloaded product, the OLE will still have the authority and ability to conduct a full audit of offload weights to verify reported crab catch weight.

Specifically, this rule removes the requirement at § 680.5(e) for the owner or operator of a catcher/processor to complete and submit to NMFS a catcher/processor offload report with its attached scale printout showing gross product offload weight. It also removes § 680.5(a)(2)(i)(H) because it only serves as a cross-reference to § 680.5(e), which is removed. This rule also removes the requirement at § 680.23(b)(4) for catcher/processors to weigh all offloaded CR Program crab on a state-approved scale.

NMFS published the proposed rule for this action in the **Federal Register** on August 10, 2010 (75 FR 48298), with a public comment period that closed August 25, 2010. One comment was received from a private citizen during this comment period and is summarized and responded to below.

Response to Comments

Comment 1: The commenter supports the removal of the regulatory requirement for catcher/processors to weigh all offloaded CR Program crab on a state-approved scale, saying the requirement is redundant and unnecessary.

Response: NMFS agrees.

Classification

The Administrator, Alaska Region, NMFS, has determined that this rule is necessary for the conservation and management of the Bering Sea and Aleutian Islands crab fisheries and that

it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule removes weighing and reporting requirements that NMFS has determined are no longer necessary for management and monitoring of the crab fisheries. These requirements constitute a restriction on CR catcher/processors because operators of these vessels currently may not legally land processed crab without complying with these requirements. After NMFS removes these requirements, fewer restrictions will apply to landings of processed crab by CR catcher/processors. Specifically, operators of CR catcher/processors that do not weigh the offloaded product on approved scales and submit the offload report to NMFS will be able to legally land processed crab. The elimination of these weighing and reporting requirements reduces the costs associated with legally landing processed crab by relieving a restriction on crab landings by catcher/processor vessels. Therefore, this final rule is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act, 5 U.S.C. 553(d)(1).

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

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council 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, and no changes have

been made to the proposed rule. As a result, a regulatory flexibility analysis was not required and none was prepared.

This action will not increase recordkeeping and reporting costs.

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office for Management and Budget (OMB) under OMB Control No. 0648-0570.

Public reporting burden per response is estimated to average 20 minutes for a catcher/processor crab offload report. This rule removes this offload report and the associated reporting burden without imposing any new, additional reporting burden..

These estimates of public reporting burden 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*); e-mail to *OIRA_Submission@omb.eop.gov* or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 13, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 680 is amended 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; Pub. L. 109-241; Pub. L. 109-479.

§ 680.5 [Amended]

■ 2. In § 680.5, remove and reserve paragraph (a)(2)(i)(H) and paragraph (e).

■ 3. In § 680.23, revise paragraph (b)(4) to read as follows:

§ 680.23 Equipment and operational requirements.

* * * * *

(b) * * *

(4) Offload all CR crab product processed onboard at a shoreside location in the United States accessible by road or regularly scheduled air service; and

* * * * *

§ 680.23 [Amended]

■ 4. At each of the locations 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” column.

Location	Remove	Add	Frequency
§ 680.23(f)(3)(i)	delivery or offload are	delivery are	1
§ 680.23(f)(3)(ii)	CR crab or an offload of CR crab product must	CR crab must	1