

accordance with the Act, which allows us to extend the timeline for publication of the “Medicare and Medicaid Programs; Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-inclusive Care for the Elderly (PACE), Medicaid Fee-For-Service, and Medicaid Managed Care Programs for Years 2020 and 2021” final rule under exceptional circumstances.

DATES: As of October 28, 2022, the timeline for publication of a rule to finalize the November 1, 2018 proposed rule (83 FR 54982) is extended until February 1, 2023.

FOR FURTHER INFORMATION CONTACT: Joseph Strazzire, (410) 786-2775.

SUPPLEMENTARY INFORMATION: On November 1, 2018 (83 FR 54982), we published a proposed rule, “Medicare and Medicaid Programs; Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-inclusive Care for the Elderly (PACE), Medicaid Fee-For-Service, and Medicaid Managed Care Programs for Years 2020 and 2021,” that would revise the Medicare Advantage (MA) Risk Adjustment Data Validation (RADV) regulations to improve program efficiency and payment accuracy. The proposed rule discussed the Secretary’s authority to: (1) extrapolate in the recovery of RADV overpayments, starting with payment year 2011 contract-level audits; and (2) not apply a fee-for-service (FFS) adjuster to the RADV overpayment determinations.

Section 1871(a)(3)(A) of the Act requires the Secretary to establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation. In accordance with section 1871(a)(3)(B) of the Act, the timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but may not be longer than 3 years except under exceptional circumstances. In addition, in accordance with section 1871(a)(3)(B) of the Act, the Secretary may extend the initial targeted publication date of the final regulation if the Secretary, no later than the regulation’s previously established proposed publication date, publishes a notice with the new target date for publication, and such notice includes a brief explanation of the justification for the variation.

On October 21, 2021 (86 FR 58245), we published a notice of a 1-year extension of the timeline for publication of a rule to finalize the November 1,

2018, proposed rule (83 FR 54982) until November 1, 2022. However, we are unable to meet this November 1, 2022, timeline for publication of the previously referenced RADV-audit related provisions because of ongoing exceptional circumstances. As described in the October 21, 2021 notice of extension of the timeline, we provided several extensions of the comment period and we received extensive public comments on the proposed rule and subsequent FFS Adjuster study and related data. We continue to have ongoing delays resulting from the agency’s focus on the COVID-19 public health emergency, and we have determined that additional time continues to be needed to address the complex policy and operational issues that were raised.

This document extends the timeline for publication of the final rule for an additional 3 months, until February 1, 2023.

Elizabeth J. Gramling,

*Executive Secretary to the Department,
Department of Health and Human Services.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

[Docket No.: 221020-0225]

RIN 0648-BL50

Fisheries of the Exclusive Economic Zone off Alaska; Revisions to the Economic Data Reports Requirements; Amendment 52 to the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries of the Bering Sea and Aleutian Islands

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

ACTION: Proposed rule; requests for comments.

SUMMARY: NMFS issues a proposed rule to implement Amendment 52 to the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries of the Bering Sea and Aleutian Islands (Crab FMP) and a regulatory amendment to revise regulations on Economic Data Reports (EDR) requirements for groundfish and crab fisheries off Alaska. If approved, this proposed rule would remove third party

data verification audits and blind formatting requirements from the Bering Sea and Aleutian Islands (BSAI) crab fisheries EDR, the Bering Sea American Fisheries Act (AFA) pollock fishery, Chinook Salmon EDR, and the BSAI Amendment 80 fisheries EDR. This action would also eliminate the EDR requirements for the Gulf of Alaska (GOA) trawl fisheries. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Crab FMP, the Fishery Management Plans for Groundfish of the Gulf of Alaska Management Area (GOA FMP), the Groundfish of the BSAI Management Area (BSAI FMP), and other applicable laws.

DATES: Submit comments on or before December 1, 2022.

ADDRESSES: You may send comments, identified by Docket ID NOAA-NMFS-2022-0083 by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0083 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: 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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review (referred to as the “Analysis”) and the Categorical Exclusion prepared for this emergency rule may be obtained from <https://www.regulations.gov> identified by Docket ID NOAA-NMFS-2022-0083 or from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

Written comments regarding the burden-hour estimates or other aspects

of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS at the above address and to www.reginfo.gov/public/do/PRAMain. Find the particular information collection by selecting “Currently under 30-day Review—Open for Public” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Jennifer Watson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska under the BSAI FMP and the GOA FMP. NMFS manages the king and Tanner crab fisheries in the United States EEZ of the BSAI under the Crab FMP. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the BSAI FMP, the GOA FMP, and the Crab FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*

A notice of availability for Amendment 52 to the Crab FMP was published in the **Federal Register** at (87 FR 60638), on October 6, 2022. Comment on Amendment 52 is invited through December 5, 2022. All relevant written comments received by the end of the comment period, whether specifically directed to the FMP amendment, this proposed rule, or both, will be considered in the approval/disapproval decision for Amendment 52 and addressed in the response to comments in the final rule.

Background

Four EDR data collection programs are in place for crab and groundfish fisheries off Alaska. These programs impose mandatory annual data reporting requirements for regulated entities participating in the BSAI Crab Rationalization (CR) fisheries, the AFA pollock fishery, the BSAI Amendment 80 fisheries, and the GOA trawl fisheries. The purpose of EDRs are to gather data and information to improve the analyses developed by the Council on the social and economic effects of the catch share or rationalization programs, to understand the economic performance of participants in these programs, and to help estimate impacts of future issues, problems, or proposed revisions to the programs covered by the EDRs.

CR Program EDR

The Crab EDR was implemented concurrently with the CR Program under Amendments 18 and 19 of the BSAI Crab FMP (70 FR 10174; March 2, 2005). The rule requiring the Crab EDR

submission was codified in 50 CFR 680.6, which retroactively required participants to submit EDR forms for 1998, 2001, and 2004 calendar year operations by June 1, 2005, and to submit an annual Crab EDR form for calendar year 2005, and thereafter by May 1 of the following year. Amendment 42 (78 FR 36122; June 17, 2013) revised annual Crab EDR reporting requirements in order to eliminate redundant reporting requirements, standardize reporting requirements, and reduce costs associated with data collection. The amended rule extended the annual submission deadline to July 31.

The reporting requirements for the Crab EDR apply to owners and leaseholders of catcher vessels (CVs) and catcher/processors (CPs) with landings of BSAI CR crab, including Community Development Quota (CDQ) allocated crab, and owners and leaseholders of Registered Crab Receivers (RCRs) who purchase and/or process landed BSAI CR crab during a calendar year. For all groups, the annual submission requirement is imposed on CR crab program participants who harvest, purchase, or process CR crab.

The Crab EDR consists of reporting forms developed for three respective sectors: the Crab CV EDR, Crab processor EDR, and the Crab CP EDR. The CV and processor forms collect distinct sets of data elements, with the CP form combining of all data elements collected in the CV form and applicable elements from the processor form. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

Amendment 80 EDR

The Amendment 80 EDR was implemented on January 20, 2008 (72 FR 52668; September 14, 2007) as part of the Amendment 80 management program and codified in regulation at 50 CFR 679.94. Amendment 80 allocated several BSAI non-pollock trawl groundfish species among trawl fishery sectors, and facilitated the formation of harvesting cooperatives in the non-AFA trawl CP sector. The initial Amendment 80 EDR submissions were due June 1, 2009, reporting data for the 2008 calendar year. The Amendment 80 EDR reporting requirements applied to all Amendment 80 Quota Share (QS) permit holders. Permit holders who actively operated an Amendment 80 vessel were required to complete the entire EDR form, while QS permit holders who did not operate a vessel were required to complete portions of the form pertaining to QS permit sale or lease costs and revenues.

When the GOA Trawl EDR program was implemented for both CV and CP participants, it amended the Amendment 80 EDR at 50 CFR 679.94 to include the CPs participating in GOA trawl fisheries. It also changed the name of the form from the Amendment 80 EDR to the Annual Trawl CP EDR. Additional reporting elements specific to GOA Trawl CPs were added to the form. The rule also extended the requirement to complete all portions of the EDR form to owners and leaseholders of any vessel named on a License Limitation Program (LLP) groundfish license authorizing a CP using trawl gear to harvest and process LLP groundfish species in the GOA. The association between the GOA Trawl (CV and shoreside processor) EDR and Annual Trawl CP EDRs has resulted in confusion. For the sake of clarity, in this proposed rule, the EDR currently specified under 50 CFR 679.94 is referenced as the Amendment 80 EDR (rather than the Annual Trawl CP EDR), and the EDR under 50 CFR 679.110 (a)(1) and (2) is referenced as the GOA Trawl EDR; any relevant distinctions or overlaps are described as needed.

The Amendment 80 EDR form has been submitted annually by Amendment 80 QS holders since 2008. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

GOA Trawl EDR

The GOA Trawl EDR was implemented on January 1, 2015 (79 FR 71313; December 2, 2014) and codified in regulation at 50 CFR 679.110. The initial GOA Trawl EDR submissions were due June 1, 2016, for reporting 2015 calendar year data. The GOA Trawl EDR was implemented to collect relevant baseline information that could be used to assess the impacts of a future catch share program on affected harvesters, processors, and communities in the GOA. However, Council action on a catch share program that addressed issues with GOA bycatch management was suspended in December 2016, and no catch share program exists for GOA harvesters, processors, and communities.

The intended submitters for the GOA Trawl EDR includes owners and leaseholders of CVs and CPs active in the Central and Western GOA groundfish trawl fishery and operators of shoreside processing facilities that receive groundfish catch from the GOA. The EDR consists of two distinct EDR forms, the GOA Trawl CV EDR and GOA Shoreside Processor EDR. An additional EDR form overlaps with the

Amendment 80 EDR, as described above.

The GOA Trawl CV EDR form is required for all trawl CVs that harvested groundfish in the GOA during the previous year. The GOA Shoreside Processor EDR form is required for all shore-based processors that receive and process groundfish from GOA trawl fisheries. The Annual Trawl CP EDR form is required for all vessel owners and leaseholders that catch and process groundfish in the GOA trawl fisheries. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

Amendment 91 Chinook Salmon EDR

The Amendment 91 EDR and additional record keeping and reporting requirements associated with monitoring of Chinook salmon bycatch avoidance measures for the AFA pollock fishery were implemented concurrently on March 5, 2012 (77 FR 5389; February 3, 2012). The implementation of the Amendment 91 EDR occurred approximately 17 months after Amendment 91 (75 FR 53026) went into effect. The initial submission of EDR forms required under 50 CFR 679.65 were due on June 1, 2013 reporting data for the 2012 calendar year. The Amendment 91 EDR was implemented to provide additional data to assess the effectiveness of the Chinook salmon bycatch management measures in the Bering Sea (BS) pollock fishery.

The Amendment 91 EDR reporting requirement applies to owners and leaseholders of AFA CVs, CPs, and motherships active in the BS pollock fishery and to entities eligible to receive Chinook salmon Prohibited Species Catch (PSC) allocation, including AFA in-shore sector harvest cooperative representatives, sector-based Incentive Plan Agreement representatives, and CDQ group representatives. In addition, vessel captains who actively participate in the AFA pollock fishery are intended to complete one of the three Amendment 91 EDR forms, but this form is submitted by the owner or leaseholders of the vessel.

The Amendment 91 EDR program consists of three separate forms: the Compensated Transfer Report (CTR), the Vessel Fuel Survey, and the Vessel Master Survey. The CTR collects transaction data on all compensated transfers of Chinook PSC by participants in the AFA fishery. The CTR is to be completed by all entities participating as lessor or lessee in compensated transfers of Chinook PSC. However, no such transactions have ever been reported. The Vessel Fuel Survey form is required for all AFA vessels that

harvested BSAI pollock during the previous year and collects information about the vessel's average fuel consumption, the total amount in gallons of fuel loaded onto the vessel, and total annual fuel cost. The Vessel Master Survey form is used to determine the fishing and bycatch conditions observed during the BSAI pollock fishery and factors that motivated Chinook salmon bycatch avoidance. A complete list of the data elements for each of the forms is in Section 3.2 of the Analysis (see **ADDRESSES**).

History of the Action

Public testimony from one stakeholder at the February 2018 Council meeting noted that the EDR programs had been in effect for some time and that industry was spending considerable time and money to complete the reports, in some cases reimbursing NMFS for the administrative costs of the EDR programs through catch share cost recovery programs. The testifier suggested that the Council review the EDR requirements to determine whether and how the data was being used, whether it was being collected efficiently, and whether the data collection programs were meeting the Council's needs.

In April 2018, the Council reviewed a discussion paper prepared by NMFS that provided information related to NMFS's request that the Council review all its regulations to identify any that were outdated, unnecessary, ineffective, or could be further streamlined. This discussion paper referenced the Council's February 2018 discussion regarding the EDR requirements being a possible area warranting future Council review. In addition, at the April 2018 meeting, the Council also heard public testimony raising the question of whether the EDR requirements for the GOA trawl CVs and shoreside processors had met the Council's purpose and need to collect baseline information to assess the impacts of a potential future catch share program in those fisheries.

Later in the April 2018 meeting, in response to this public comment and further discussion among Council members, the Council requested that NMFS prepare a discussion paper describing the EDR requirements for all programs, explaining how the data are used, and estimating the costs of complying with the EDR requirements. The Council's motion stated that the Council could then use the information in the discussion paper to determine if revisions to EDR requirements were

needed and, if so, the priority and process for proposed revisions.

NMFS presented this discussion paper to the Council in April 2019. The EDR discussion paper included a set of shorter-term practical recommendations aimed at reducing costs and burdens, as well as improving data utility by streamlining data access. These recommendations included eliminating routine third-party data verification audits and limiting the audits to instances of gross noncompliance, reviewing duplication of reporting requirements in EDR programs, and improving data utility while maintaining confidential data protections by reconsidering the blind formatting and the rule-of-5 aggregation standard. Blind formatting and the rule-of-5 aggregation standard are explained in detail further down in this proposed rule. In addition to the shorter-term practical recommendations, the discussion paper also set forth longer term recommendations that included developing a systematic approach to identifying and prioritizing the Council's needs for economic and social science information. Therein, these recommendations specifically noted the need to identify relevant analytical and performance metrics, minimum requirements for accuracy and precision of information outputs, and a framework for balancing trade-offs between all relevant dimensions of information quality and system costs. A full description of the specific longer-term recommendations of the April 2019 NMFS discussion paper can be found in Section 1.3 the Analysis (see **ADDRESSES**).

Also at the April 2019 meeting, the Council recommended a comprehensive review of the current EDR programs. The comprehensive review was undertaken by the Council's Social Sciences Planning Team (SSPT). The SSPT provided a report to the Council about its progress on this issue at the February 2020 meeting. Following review of the SSPT report, the Council further instructed the SSPT to engage in a series of outreach meetings to seek input from EDR stakeholders in evaluating the EDR program overall, as well as each individual EDR program. Virtual outreach meetings were held in 2020, and the final SSPT outreach reports were presented to the Council in April 2021.

After receiving the SSPT reports, the Council took action in a motion on April 16, 2021. That motion did not change the purpose and need, but created a new alternative, with four non-mutually exclusive options to remove each EDR. The motion also

added a new option to change the frequency of EDR information collections from annually to options of two years, three years, and five years, respectively.

The Council took final action on February 8, 2022. The Council chose to eliminate the use of data verification audits, because automated procedures for validating EDR submission have reduced the need for audits. Eliminating data verification audits would remove a potential compliance burden for those required to submit EDRs. The Council also chose to revise the data aggregation and blind formatting requirements in the Crab EDR in order to improve the usability of collected data and to make the Crab EDR's confidentiality policy consistent with other Council and NMFS data reporting methods. The Council chose to remove the GOA Trawl EDR requirements altogether. The original purpose of this EDR was to collect baseline data to prepare for development of a GOA trawl catch share program and the Council has subsequently chosen not to continue with development of a catch share program for the GOA trawl fishery at this time. Accordingly, this EDR is no longer aligned with its intended purpose. Eliminating the GOA Trawl EDR would remove the reporting burden for industry and agency management costs. Finally, the Council reiterated its April 2021 request for several non-regulatory changes to the EDR reporting forms to decrease respondent burden. These changes were identified in stakeholder workshops and the March 2021 SSPT report, and include changes to the EDR forms to eliminate data fields that are not used in analyses and to pre-fill data fields that do not change frequently. To that end, NMFS economists are implementing these changes and will report progress to the Council in October 2022.

Need for Action

Data submitted in the current Crab EDRs provide valuable information for program evaluation and analysis of proposed conservation and management measures. However, the Crab EDR was implemented over ten years ago and revisions are needed to improve the usability, efficiency, and consistency of this data collection program and to minimize cost to industry and the Federal government. Several of the revisions to the Crab EDR included in this proposed rule, specifically on the use of third-party audits and blind formatting, could reduce industry and government costs while still maintaining the integrity and

confidentiality of this data collection program.

In the original Crab EDR program, several requirements were implemented to provide a higher standard of confidentiality for proprietary business information reported in the Crab EDR. These requirements were stricter than those that apply to all other confidential fisheries information. In practice, these stricter confidentiality requirements have reduced the usability of the data for analysis and increased the cost of the Crab EDR program, without providing additional practical protections for sensitive information. Confidentiality requirements that apply to other routine data collections provide sufficient protections for the EDR data.

Different issues exist in the GOA Trawl EDR program, which was implemented in 2015 and designed to collect baseline information to assess the impacts of a future GOA trawl catch share program. Because no catch share program is in development by the Council and none is apt to be developed in the foreseeable future, the GOA Trawl EDR program is no longer needed.

Challenges With Data Verification and Auditing Requirement

EDR data verification is required under EDR regulations and requires NMFS or its designated agent, known as a data collection agent (DCA), to verify information with a person required to submit the applicable EDR or that person's designated representative. The regulations require the EDR submitter to respond to inquiries from the DCA within 20 days, require the submitter to provide supporting records to the DCA as requested, and authorize the DCA auditor to review the records for the purpose of substantiating values reported in the EDR. In developing the data verification and audit procedures, NMFS has relied on the Council's record of decision for the CR Program for guidance in implementing the Crab EDR, specifically, the CR Program Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA). This guidance states that the verification of data, auditing, and error-checking would be the primary responsibility of the DCA. Further, the guidance provides that the DCA will: (1) develop a system to identify outliers, incomplete data, or anomalies in the data submissions; and (2) retain accountants to review data submissions as part of the audit process and identify errors or flag possible fraudulent submissions.

NMFS began developing data verification protocols and procedures for the Crab EDR in 2005 and has

continued to refine the process to identify and correct data reporting errors, while reducing the cost and burden of the audit process. Prior to incorporation of EDR data into the Alaska Fish Information Network (AKFIN) database in 2011, EDR data validation was largely reliant on the audit process. Automation now allows the DCA to identify most errors and obtain corrections from submitters shortly after EDRs are submitted.

EDR data verification via automation currently employs a series of procedures, including (1) primary, automated data validation procedures, (2) secondary validation employing statistical procedures and visual inspection to identify data anomalies and statistical outliers, and (3) editing and imputation for data errors identified by data users that were not detected and corrected in primary and secondary validation.

Primary automated validation procedures are executed on each EDR record shortly after receiving a certified EDR submission, with follow-up contacts with submitters to obtain corrections as needed. Most of these errors are identified and corrected easily with a phone call and result in a re-certified EDR submission within two weeks of the submission.

To begin secondary validation via automation, AKFIN completes integration of current year EDR records with other datasets, calculation of pro-rata and statistical indices, and plotting for visual inspection. NMFS and the DCA review the results to identify visual outliers and anomalies. Flagged values are selected for correction through follow-up by the DCA or selection for a third-party verification audit.

By contrast, audit protocols require auditors to notify EDR submitters that have been selected for audit and to request supporting materials to enable auditors to substantiate reported values. Once auditors have received the requested records, the auditors confirm a correct value for the data element (either the original reported value or a corrected value). Auditors also evaluate the quality of supporting information provided by the submitter and characterize the quality and nature of reporting errors. Audit corrections are entered into the EDR database, and AKFIN's production version of the EDR database is finalized after all audit results are entered.

But two issues have emerged with the audit process from working with CPA firms. First, in all the EDR audit reviews conducted since 2006, there has not been a single finding of intentional

misreporting or of any bias in the direction of reporting errors identified by auditors. Most of the errors found between 2006 and the present were unintentional human error and could be easily corrected by contacting the submitter for clarification without the additional cost of hiring a CPA firm. Second, verifying the quality of results produced by CPAs has required NMFS and the DCA to recreate the same work completed by the CPA firms. The tasks involved with auditing EDR data submissions are unique, generally unfamiliar to CPAs, and require one or two annual cycles of EDR submissions to gain experience. Given that CPA firms have chosen to not renew their contracts with NMFS and new contracts must be established, it has proven challenging for CPAs to gain experience auditing EDR data submissions. Without experienced CPAs to complete the audits, NMFS and the DCA must continue to spend significant time and resources verifying the audits. Eliminating the audit authorization would remove these challenges.

Removing the audit requirements would also avoid the DCA from needing to contract a third-party auditor to conduct the audit portion of the data verification. And doing so would not compromise data quality due to the automated EDR data verification procedures described above, which would remain in place and continue to be used under the proposed rule. Additionally, enforcement provisions exist for all recordkeeping and reporting requirements, including the EDR program. Enforcement actions would continue to be possible in cases of noncompliance with the EDR regulatory provisions.

The automated verification and audit processes accrue an annual combined cost for industry that is estimated to be approximately \$26,400 for each Crab EDR; \$1,480 for each Amendment 80 EDR; and \$2,405 for each GOA Trawl EDR. While the removal of the audit processes would reduce these costs, some portion would remain as routine automated data verification procedures would continue as detailed above.

In addition to reducing the cost of industry compliance with audits, the NMFS contracting cost for CPA firms would be eliminated. The Crab EDR costs have ranged from approximately \$22,000 to \$65,000 annually and have generally been decreasing over the life of the Crab EDR Program. Audits were done in the Amendment 91 program in 2013 and 2014 with costs of between \$15,000 and \$18,000 annually for audits of the fuel and master surveys. Amendment 80 EDR and GOA Trawl

EDR combined have had auditing costs of \$30,000 to \$35,000 annually. This action would eliminate the audit contracting costs incurred for the EDR program, as well as any associated cost recovery fees.

Challenges With the Blind Formatting Requirement

Blind formatting requires the collection of EDR forms to be performed by a third-party designated data collection auditor (DDCA) and the removal of unique identifiers (e.g., vessel identifiers, permit numbers) from EDR data records accessible to the Council and NMFS. Blind formatting is only required for the Crab EDR and the GOA Trawl EDR. Blind formatting introduces significant administrative challenges for NMFS's management of the EDR program because staff responsible for oversight of data verification and validation processes are prohibited from accessing identifying information. This has impeded timely completion of verification audits and production of economic reports developed from EDR data.

The EDR data confidentiality protocols also impose limitations on the data's usability because the data is aggregated to such an extent that details needed to analyze the associated catch share program's social and economic impacts are not available. The DDCA and blind formatting are unique to the Crab EDR and the GOA Trawl EDR program, as they are not required for the Amendment 80 EDR program or Amendment 91 Chinook Salmon EDR program. The Council wished to apply a higher standard of confidential data protection to the cost data and other proprietary business information collected in EDRs. But these protective standards impede the Council and NMFS analysts' use of the data. Blind data is frequently either inconsistently applied across EDR programs or unusable because critical data elements, such as permit numbers, are not accessible. Analysts' use of blind EDR data also enhances the risk of inadvertently disclosing confidential data. This is because of the small number of entities that may be represented in the EDR records. If the EDR records are not accessible to analysts, it is hard for them to know if the data should be confidential. Analysts may avoid using EDR data even where it may have been the best information available, and choose alternative data sets with lower risk and complexity.

Removing the blind formatting requirements would make the data aggregations and confidentiality

protections for the Crab EDR comparable to the requirements under other EDR programs. It would also increase the usability and access to the EDR data for Council and NMFS analysts. Without the concern of inadvertently disclosing confidential data, analysts may be more likely to use the EDR data.

Challenges With the GOA Trawl EDR Program

In its original purpose and need statement for the GOA Trawl EDR in its February 2013 motion, the Council identified a need to establish a baseline information collection that could be used to assess the impacts of a catch share program, particularly on affected harvesters, processors, and communities in the GOA. However, Council action on a catch share program that addressed issues with GOA bycatch management was suspended in December 2016. Thus, the original need for the GOA Trawl EDR has been indefinitely suspended, calling into question the efficacy of continuing the program given that taxpayers and industry bear the cost of maintaining the program. Elimination of the GOA Trawl EDR would avoid the agency-borne programmatic costs since the GOA Trawl EDR is not part of a catch share fishery and, thus, administrative costs are not subject to cost recovery. Elimination of the GOA Trawl EDR program would also eliminate compliance costs for industry. Additional information about the administrative and the industry compliance costs associated with this EDR can be found in Section 4.5 of the Analysis (see **ADDRESSES**).

Proposed Rule

This proposed rule would remove or revise regulations at 50 CFR parts 679 and 680. This proposed rule would remove third-party data verification audits for the Crab EDR, the Amendment 91 EDR, and the Amendment 80 EDR and remove blind formatting requirements for the Crab EDR. This action would also eliminate the GOA Trawl EDR requirements.

Eliminating Data Verification Audits

This proposed rule would remove the data verification audit requirements at § 679.65(e), § 679.94(b), and § 680.6(f), respectively. Removal of the audit authorization would eliminate the need for the DCA to contract with a third-party auditor to conduct the audit portion of the data verification. EDR data verification currently employs a series of validation procedures, as described above. These data validation procedures would remain and continue

to ensure the data reported is error-free. Enforcement actions would continue to be possible in cases of noncompliance with the EDR provisions as part of normal enforcement of record keeping and reporting requirements.

This proposed rule would also remove the definitions for “Designated data collection auditor” at § 679.2 and “Auditor” at § 680.2. Because the EDR audit requirements would be removed under this proposed rule, these definitions will no longer be required.

Eliminating Blind Formatting

This proposed rule would remove the definitions for “Blind data” at § 679.2 and § 680.2. Both definitions describe the required formatting process to remove the personal identifiers to the data collected from the EDRs. The identifiers include Federal fisheries permit numbers and State of Alaska vessel registration numbers that are essential data elements to analysts when developing reports and documents based on EDR data. Removing the blind formatting requirements would make the data aggregations and confidentiality protections for the Crab EDR comparable to the requirements under the other EDR programs. It would also increase the usability and access to the EDR data for Council and NMFS analysts.

Eliminating the GOA Trawl EDR

This proposed rule would remove and reserve Subpart J—Gulf of Alaska Trawl Economic Data. The original purpose of the GOA Trawl EDR was to establish a baseline information collection that could be used to assess the impacts of a catch share program. However, no catch share program has been developed to date or is currently contemplated. The original need for this data collection program has been indefinitely diminished since 2016 when the Council suspended work on a possible GOA catch share program, calling into question the efficacy of continuing the program. Eliminating the GOA Trawl EDR would avoid the agency-borne programmatic costs incurred by the Federal government due to the GOA Trawl EDR not being part of a catch share fishery and, thus, administrative costs not being subject to cost recovery. Elimination of the GOA Trawl EDR program would also eliminate compliance costs for industry.

This proposed rule would also revise section heading at § 679.94 and revise § 679.94(a)(1) to remove GOA Trawl CPs from the requirement to submit the Amendment 80 EDR form. When the GOA Trawl EDR program was implemented, it required owners and

leaseholders of any vessel named on an LLP groundfish license authorizing a CP using trawl gear to harvest and process LLP groundfish species in the GOA to complete all portions of the Amendment 80 EDR form. This proposed rule would limit the Amendment 80 EDR requirement to Amendment 80 QS permit holders alone.

Other Regulatory Changes

NMFS proposes to revise regulations at §§ 680.6(a)(2), (a)(3), (c), (d), (e)(1), and (e)(2) to update the instructions for submitting Crab EDR forms to be consistent with the submission instructions for the other more recent EDR programs.

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

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

Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation 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.

This proposed rule would remove third party data verification audits and blind formatting requirements for the BSAI crab fisheries EDR, AFA pollock fishery Chinook Salmon EDR, and the BSAI Amendment 80 fisheries EDR. This action would also eliminate altogether the EDR requirements for the GOA trawl fisheries. This proposed rule would improve the usability, efficiency, and consistency of the data collection programs and minimize cost to industry and the Federal government while still maintaining the integrity and confidentiality of the EDR data.

Many of the directly regulated entities potentially affected by this action are considered to be large entities based on cooperative affiliations. These include the AFA CPs, AFA CVs, Amendment 80 CPs, and the Crab CVs. However, there are three AFA motherships that are not likely to exceed the 750 person threshold individually or within the fishing cooperative that they belong to and are considered to be directly regulated small entities. There is also

one Amendment 80-eligible CP that is subject to the Amendment 80 EDR that is a small entity with no known cooperative affiliations. Shoreside processors participating in the Crab EDR and GOA Trawl EDR are considered to be directly regulated small entities. The numbers of directly regulated small entities in the shoreside component of the GOA Trawl EDR varies considerably and has been as high as 17 in recent years. Nineteen shoreside crab processors are considered to be directly regulated small entities. The six CDQ organizations are directly regulated small entities within one or more of the EDRs. Finally, 26 of the 78 trawl CVs that submit the GOA trawl EDR are directly regulated small entities. Based on the scope of this action, impacts to small, directly regulated entities are expected to be beneficial because this action would reduce and remove the cost of the EDR requirement to the directly regulated entities.

This action does not place any new regulatory burden on fishery participants required to submit EDRs; it removes reporting burdens to improve the usability, efficiency, and consistency of the data collection programs and minimize cost to participants required to submit EDRs. This proposed action, therefore, is not expected to have a significant economic impact on a substantial number of the small entities directly regulated by this proposed action.

As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Regulatory Impact Review

A Regulatory Impact Review was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended Amendment 52 and the regulatory revisions in this proposed rule based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed above in the Certification under the Regulatory Flexibility Act section.

Collection-of-Information Requirements

This proposed rule contains collection of information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. NMFS has submitted these requirements to OMB for approval under OMB control numbers 0648–0518 (Alaska Region Bering Sea and Aleutian Islands Crab EDRs); 0648–0564 (Groundfish Trawl Catcher/Processor

EDR); 0648–0633 (Alaska Chinook Salmon EDR); and 0648–0700 (Gulf of Alaska Catcher Vessel and Processor Trawl EDR). The proposed changes to the collections are described below. The public reporting burden for the information collection requirements provided below includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Control Number 0648–0518

NMFS proposes to revise and extend by three years OMB Control Number 0648–0518. This collection covers the economic data collection requirements for the CR Program and is necessary to monitor and evaluate the CR Program.

This collection would be revised to remove third-party data verification audits and blind formatting requirements for the BSAI crab fisheries EDR because this proposed rule removes these requirements. The three crab EDR forms would be revised to pre-fill data fields that do not change frequently to reduce the burden of the crab EDR forms. Pre-filling the data fields is estimated to reduce the respondent's data entry time by 15 minutes. However, since the burden hour estimates for the forms are rounded to the nearest hour, this modest reduction would not decrease the public reporting burden. Subject to public comment, no changes are made to the estimated reporting or cost burden for the EDRs because the estimates allow for differences in the time needed to complete and submit the forms.

Public reporting burden per individual response is estimated to average 20 hours each for the Annual Catcher Vessel Crab EDR and the Annual CP Crab EDR, 16 hours for the Annual Processor Crab EDR, and 1 hour for an EDR certification page.

The estimated number of respondents for this collection is 77; the estimated total annual burden hours are 1,449 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs is \$385.

OMB Control Number 0648–0564

NMFS proposes to revise and extend by three years OMB Control Number 0648–0564. This collection covers the economic data collection requirements for Amendment 80 and GOA trawl CPs. This collection is necessary to help evaluate the Amendment 80 Program, including program-eligible trawl CPs, and is used by NMFS and the Council to assess the impacts of major changes in the groundfish management regime,

including programs for prohibited species catch species and target species.

This collection would be revised to remove third-party data verification audits for the Annual Trawl Catcher/Processor EDR and remove requirements for the GOA Trawl EDR Program because this proposed rule removes regulations for the audit authorization and eliminates the GOA Trawl EDR Program. Eliminating the program would simplify the Annual Trawl Catcher/Processor form. This form would be revised to remove data fields that are not being used in analyses and to pre-fill data fields that do not change frequently. These changes to the form are expected to reduce the time burden on respondents by approximately two hours.

Public reporting burden per individual response is estimated to average 20 hours for the Annual GOA Trawl Catcher/Processor EDR.

The estimated number of respondents for this collection is 22; the estimated total annual burden hours are 440 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs is \$110.

OMB Control Number 0648–0633

NMFS proposes that OMB Control Number 0648–0633 is revised to remove the verification audit for the Compensated Transfer Report because this rule removes the authorization for third party data verification audits. Subject to public comment, no changes are made to the estimated reporting or cost burden for the EDR forms as the estimates allow for differences in the time needed to complete and submit the forms.

Public reporting burden per individual response is estimated to average 40 hours for the Compensated Transfer Report, 4 hours for the Vessel Fuel Survey, and 4 hours for the Vessel Master Survey.

OMB Control Number 0648–0700

NMFS proposes to discontinue OMB Control Number 0648–0700, which covers the economic data collection requirements for the GOA Trawl EDR Program. The original purpose of the GOA Trawl EDR was to establish a baseline information collection that could be used to assess the impacts of a catch share program. However, no catch share program has been developed to date. The original need for this data collection program has been indefinitely suspended, calling into question the efficacy of continuing the program given that taxpayers and industry bear the cost of maintaining the program. Elimination of the GOA Trawl EDR would eliminate

the agency borne programmatic costs incurred by the Federal government as the GOA Trawl EDR is not part of a catch share fishery and thus administrative costs are not subject to cost recovery. Elimination of the GOA Trawl EDR program would also eliminate compliance costs for industry.

Public Comment

Public comment is sought regarding whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection-of-information to NMFS Alaska Region at the **ADDRESSES** above and at www.reginfo.gov/public/do/PRAMain.

Notwithstanding any other provisions of 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. All currently approved NOAA collections of information may be viewed at <https://www.reginfo.gov/public/do/PRASearch>.

List of Subjects

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 680

Alaska, Reporting and recordkeeping requirements.

Dated: October 20, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR parts 679 and 680 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

§ 679.2 [Amended]

■ 2. In § 679.2, remove the definitions for “Blind data” and “Designated data collection auditor”.

§ 679.65 [Amended]

■ 3. In § 679.65, remove paragraph (e).
 ■ 4. In § 679.94, revise the section heading, paragraph (a)(1), and remove and reserve paragraph (b) to read as follows:

§ 679.94 Economic data report (EDR) for the Amendment 80 sector.

(a) * * *

(1) *Requirement to submit an EDR.* A person who held an Amendment 80 QS permit during a calendar year must submit a complete Annual Trawl Catcher/Processor EDR for that calendar year by following the instructions on the Annual Trawl Catcher/Processor EDR form.

(b) [Reserved]

Subpart J—[Removed and Reserved]

■ 5. Remove and reserve subpart J, consisting of § 679.110.

* * * * *

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

■ 6. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

§ 680.2 [Amended]

■ 7. In § 680.2, remove the definitions for “Auditor” and “Blind data”.

■ 8. In § 680.6, revise paragraphs (a)(2) and (3), (c), (d), (e)(1) and (2), and remove paragraphs (f) and (g) to read as follows:

§ 680.6 Crab economic data report (EDR).

(a) * * *

(2) A completed EDR or EDR certification pages must be submitted to NMFS, in the manner specified on the NMFS-issued EDR form, for each calendar year on or before 1700 hours, A.l.t., July 31 of the following year.

(3) Annual EDR forms for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors are available on the NMFS Alaska Region website at <https://alaskafisheries.noaa.gov> or by contacting NMFS at 1–800–304–4846.

* * * * *

(c) *Annual catcher vessel crab EDR*—Any owner or leaseholder of a catcher vessel that landed CR crab in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed catcher vessel EDR for annual data for the previous calendar year.

(d) *Annual catcher/processor crab EDR*—Any owner or leaseholder of a catcher/processor that harvested or processed CR crab in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed catcher/processor EDR for annual data for the previous calendar year.

(e) * * *

(1) Any owner or leaseholder of an SFCP or a shoreside crab processor that processed CR crab, including custom processing of CR crab performed for other crab buyers, in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed processor EDR for annual data for the previous calendar year.

(2) Any holder of a registered crab receiver (RCR) permit that obtained custom processing for CR Program crab in the previous calendar year must submit to NMFS, in the manner specified on the NMFS-issued EDR form, a completed processor EDR for annual data for the previous calendar year.

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