

structured approach based on the profit analysis factors described in 1615.404–70. For experience-rated plans, OPM will use the performance based percentage so determined to develop the profit or fee prenegotiation objective, which will be the total profit (service charge) negotiated for the contract. For community-rated plans, OPM will use the performance based percentage so determined to develop an adjustment to net-to-carrier premiums, (performance adjustment) to be made during the first quarter of the following contract period.

\* \* \* \* \*

■ 5. Section 1615.404–70 is revised as follows:

**1615.404–70 Profit analysis factors.**

(a) OPM Contracting Officers will apply a weighted guidelines method in developing the performance based percentage for FEHB Program contracts. For experience-rated plans, the performance based percentage will be applied to projected incurred claims and allowable administrative expenses. For community-rated plans, the performance based percentage will be applied to subscription income and will be used to calculate a performance adjustment to net-to-carrier premiums, as described at 48 CFR 1632.170(a)(2), to be made during the first quarter of the following contract period. In the context of the factors outlined in FAR 15.404–4(d), OPM will assess performance of FEHB carriers according to four factors.

(1) *Clinical quality.* OPM will consider elements within such domains as preventive care, chronic disease management, medication use, and behavioral health. This factor incorporates elements from the FAR factor “contractor effort.”

(2) *Customer service.* OPM will consider elements within such domains as communication, access, claims, and member experience/engagement. This factor incorporates elements of the FAR factor “contractor effort.”

(3) *Resource use.* OPM will consider elements within such domains as utilization management, administrative, and cost trends. This factor incorporates elements of the FAR factors “contractor effort,” “contract cost risk,” and “cost control and other past accomplishments.”

(4) *Contract oversight.* OPM will consider an assessment of contract performance in specific areas such as audit findings, fraud/waste/abuse, and responsiveness to OPM, benefits/network management, contract compliance, technology management, data security, and Federal socio-economic programs. This factor could incorporate any of the FAR profit

analysis factors listed at 15.404–4(d)(1)(i)–(vi).

(b) The sum of the maximum scores for the profit analysis factors will be 1 percent.

**PART 1632—CONTRACT FINANCING**

■ 6. The authority citation for part 1632 continues to read as follows:

**Authority:** 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 7. In section 1632.170, paragraph (a)(2) is revised to read as follows:

**1632.170 Recurring premium payments to carriers.**

(a) \* \* \*

(2) The difference between one percent and the performance based percentage of the contract price described at 1615.404–4 will be multiplied by the carrier’s subscription income for the year of performance and the resulting amount (performance adjustment) will be withheld from the net-to-carrier premium disbursement during the first quarter of the following contract period unless an alternative payment arrangement is made with the carrier’s Contracting Officer.

Amounts withheld from a community rated plan’s premium disbursement will be deposited into the plan’s Contingency Reserve.

\* \* \* \* \*

**PART 1652—CONTRACT CLAUSES**

■ 8. The authority citation for part 1652 continues to read as follows:

**Authority:** 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 9. In section 1652.232–70, revise the introductory text and paragraph (a) and remove paragraph (f).

The revisions read as follows:

**1652.232–70 Payments—Community-rated contracts.**

As prescribed in 1632.171, the following clause shall be inserted in all community-rated FEHBP contracts:

**Payments**

(a) OPM will pay to the Carrier, in full settlement of its obligations under this contract, subject to adjustment for error or fraud, the subscription charges received for the plan by the Employees Health Benefits Fund (hereinafter called the Fund) less the amounts set aside by OPM for the Contingency Reserve and for the administrative expenses of OPM, amounts for obligations due pursuant to paragraph (b) of this clause and the performance adjustment described at 1615.404–4, plus any payments made by OPM from the Contingency Reserve.

\* \* \* \* \*

■ 10. In section 1652.232–71, revise the introductory text and paragraph (a) and remove paragraph (f).

The revisions read as follows:

**1652.232–71 Payments—experience-rated contracts.**

As prescribed in 1632.172, the following clause shall be inserted in all experience-rated FEHBP contracts:

(a) OPM will pay to the Carrier, in full settlement of its obligations under this contract, subject to adjustment for error or fraud, the subscription charges received for the plan by the Employees Health Benefits Fund (hereinafter called the Fund) less the amounts set aside by OPM for the Contingency Reserve and for the administrative expenses of OPM, amounts for obligations due pursuant to paragraph (b) of this clause, and the performance-based service charge described at 1615.404–4, plus any payments made by OPM from the Contingency Reserve.

\* \* \* \* \*

[FR Doc. 2014–29224 Filed 12–12–14; 8:45 am]

**BILLING CODE 6325–63–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**RIN 0648–BE50**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Region Standardized Bycatch Reporting Methodology Omnibus Amendment**

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

**ACTION:** Notice of availability of proposed fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Mid-Atlantic and New England Fishery Management Councils have submitted an Omnibus Amendment to the Fishery Management Plans of the Northeastern U.S. to establish a Standardized Bycatch Reporting Methodology, incorporating a draft Environmental Assessment and preliminary Regulatory Impact Review, for review and approval by the Secretary of Commerce, and is requesting comments from the public. The Standardized Bycatch Reporting Methodology Omnibus Amendment would establish a standardized bycatch reporting methodology for all 13 Fishery Management Plans in the region, as

required under the Magnuson-Stevens Fishery Conservation and Management Act. The proposed measures include: Bycatch reporting and monitoring mechanisms; analytical techniques and allocation of at-sea fisheries observers; a standardized bycatch reporting methodology performance standard; a review and reporting process; framework adjustment and annual specifications provisions; a prioritization process; and provisions for industry-funded observers and observer set-aside programs.

**DATES:** Comments must be received on or before February 13, 2015.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2014-0114, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0114](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0114), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on SBRM Amendment."

**Instructions:** All comments received are part of the public record and will generally be posted to [www.regulations.gov](http://www.regulations.gov) without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted via Microsoft Word, Microsoft Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Standardized Bycatch Reporting Methodology (SBRM) Omnibus Amendment, and of the draft Environmental Assessment and preliminary Regulatory Impact Review (EA/RIR), are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; and from the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The EA/RIR is also accessible via the Internet at: [www.greateratlantic.fisheries.noaa.gov](http://www.greateratlantic.fisheries.noaa.gov).

**FOR FURTHER INFORMATION CONTACT:**

Douglas Potts, Fishery Policy Analyst, 978-281-9341.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any Fishery Management Plan (FMP) amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. If approved by NMFS, this amendment would establish a comprehensive SBRM that applies to all FMPs developed by the Mid-Atlantic and New England Councils. The amendment would also effect an administrative change to the regulations on framework adjustments.

**Background**

Section 303(a)(11) of the Magnuson-Stevens Act requires that all FMPs "establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery." In 2004, several conservation organizations challenged the approval of two major FMP amendments in the Region. In ruling on these suits, the U.S. District Court for the District of Columbia found that the FMPs did not clearly establish a SBRM as required by the Magnuson-Stevens Act and remanded the amendments back to the agency to fully develop and establish the required SBRM. In particular, the Court found that the amendments: (1) Failed to fully evaluate reporting methodologies to assess bycatch; (2) did not mandate a SBRM; and (3) failed to respond to potentially important scientific evidence. In response, the Councils worked closely with NMFS to develop, adopt, and implement an omnibus FMP amendment that established a SBRM for all 13 FMPs in the region.

The final rule to implement the SBRM Omnibus Amendment was published in the **Federal Register** on January 28, 2008 (73 FR 4736). Following implementation of the SBRM amendment, a conservation organization challenged the legality of the action (*Oceana v. Locke*). The U.S. District Court initially found in favor of the Government on all counts. However, that ruling was appealed by the plaintiffs, and in 2011 the U.S. Court of Appeals issued an opinion that found fault with one element of the amendment—the prioritization process. The Court of Appeals ordered the amendment be vacated and remanded to

the agency for further proceedings. The Court of Appeals' decision found that the prioritization process "grants the Fisheries Service substantial discretion both to invoke and to make allocations according to a non-standardized procedure," and, therefore, did not "establish" a standardized methodology as required under the Magnuson-Stevens Act. On December 29, 2011, NMFS published a rule in the **Federal Register** (76 FR 81844) removing all regulations implemented by the January 28, 2008, SBRM final rule.

The Councils, in coordination with NMFS, initiated a revised SBRM amendment to build upon the substantial work previously completed to develop the SBRM and to address the limited deficiencies identified by the Court. This amendment covers 13 FMPs, 40 managed species, and 14 types of fishing gear. The purpose of the amendment is to: Explain the methods and processes by which bycatch is currently monitored and assessed for fisheries in the region; determine whether these methods and processes need to be modified and/or supplemented; establish standards of precision for bycatch estimation for these fisheries; and, thereby, document the SBRM established for all fisheries managed through the FMPs of the Northeastern U.S. The amendment also addresses the Appellate Court's concern over NMFS's "substantial discretion both to invoke and to make allocations according to a non-standardized procedure" cited in the *Oceana v. Locke* decision.

The Omnibus SBRM Amendment would establish an SBRM comprised of seven elements: (1) The methods by which data and information on discards are collected and obtained; (2) the methods by which the data obtained through the mechanisms identified in element 1 are analyzed and utilized to determine the appropriate allocation of at-sea observers; (3) a performance measure by which the effectiveness of the SBRM can be measured, tracked, and utilized to effectively allocate the appropriate number of observer sea days; (4) a process to provide the Councils with periodic reports on discards occurring in fisheries they manage and on the effectiveness of the SBRM; (5) a measure to enable the Councils to make changes to the SBRM through framework adjustments and/or annual specification packages rather than full FMP amendments; (6) a non-discretionary method to determine the available funding for at-sea observers and a formulaic process for prioritizing at-sea observer coverage allocations to match available funding; and (7) to

implement consistent, cross-cutting observer service provider approval and certification procedures and to enable the Councils to implement either a requirement for industry-funded observers or an observer set-aside program through a framework adjustment rather than an FMP amendment.

We are soliciting public comments on the SBRM Omnibus Amendment and its incorporated documents through the end of the comment period stated in this notice of availability. A proposed rule that would implement the revised SBRM Omnibus Amendment will be published in the **Federal Register** for additional public comment, following NMFS's evaluation of the proposed rule under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period provided in this notice of availability of the SBRM Amendment to be considered in the approval/disapproval decision on the amendment. All comments received by February 13, 2015, whether specifically directed to the SBRM Amendment or the proposed rule will be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received by close of business on the last day of the comment period. Comments received after that date will not be considered in the decision to approve or disapprove the revised SBRM Omnibus Amendment, including those postmarked or otherwise transmitted by the last day of the comment period.

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

Dated: December 9, 2014.

**Emily H. Menashes,**

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

[FR Doc. 2014-29216 Filed 12-12-14; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 680

**RIN 0648-BA61**

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

**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:** The North Pacific Fishery Management Council (Council) submitted Amendment 31 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) to NMFS for review. If approved, Amendment 31 would amend the Bering Sea and Aleutian Islands Crab Rationalization Program (CR Program) within the FMP to: Temporarily expand the eligibility requirements for individuals wishing to acquire C share Quota Share (QS) by transfer; establish minimum participation requirements for C share QS holders to be eligible to receive an annual allocation of Individual Fishing Quota (IFQ); establish minimum participation requirements for C share QS holders to be eligible to retain their C share QS and establish an administrative process for revocation of an individual's C share QS, if he or she fails to satisfy the minimum participation requirements; establish a regulatory mechanism to ensure that three percent of the total allowable catch (TAC) for each CR Program crab fishery is allocated as IFQ to holders of C share QS; and remove the prohibition on leasing C share IFQ. Amendment 31 is necessary to ensure that individuals who hold C shares are active in the CR Program fisheries and to ensure that application deadlines provide adequate time to resolve disputes. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

**DATES:** Comments on the amendment must be submitted on or before February 13, 2015.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2010-0265, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2010-0265](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2010-0265), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit 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.

**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](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 31, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and the categorical exclusion prepared for this action—as well as the Environmental Impact Statement prepared for the CR Program—may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>. NMFS determined that this proposed action was categorically excluded from the need to prepare an environmental assessment under the National Environmental Policy Act.

#### **FOR FURTHER INFORMATION CONTACT:**

Karen Palmigiano, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The king and Tanner crab fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs FMP (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801). Regulations implementing the FMP, including the CR Program, are primarily located at 50 CFR part 680.

#### **Overview of CR Program and C Shares**

The CR Program is a limited access privilege program that allocates the harvest of certain crab fisheries managed under the FMP among harvesters, processors, and coastal communities. Under the CR Program, NMFS issued four types of quota share (QS) to persons based on their qualifying harvest histories in certain BSAI crab fisheries during a specific period of time defined under the CR Program. The four types of QS are catcher vessel owner (CVO), catcher processor owner (CPO), catcher vessel