

regulations accurately reflect Amendment 10. NMFS recognizes transfers that occurred prior to issuing licenses and will grant licenses to those vessel owners who obtained a LLP qualifying fishing history and who fished during the RPP.

#### License Issuance

NMFS's Restricted Access Management Program (RAM) has issued interim licenses to those vessel owners who qualify under Amendment 10, but not under the existing implementing regulations, and who made a timely claim. Once the regulations are corrected, RAM will review the applications and issue licenses to persons whose vessels meet the corrected qualification requirements.

#### Classification

This proposed rule is subject to a categorical exclusion from the requirement to prepare an environmental assessment because it falls under the purview of the environmental assessment for Amendment 10, which was prepared on July 23, 1999. The environmental assessment discusses the impact on the environment as a result of this rule. The analysis indicates that the individual impacts of this proposed action, and the cumulative impacts of all the changes under Amendment 10, would have a negligible effect on the quality of the human environment. A copy of the environmental assessment is available from NMFS (see **ADDRESSES**).

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this rule, pursuant to the provisions of the Regulatory Flexibility Act (RFA) at 5 USC 603(b). The reasons for this action, the objectives, and its legal basis were discussed earlier in the preamble. This rule was found to directly regulate three entities that may have acquired LLP qualifying fishing history from another vessel before making a documented harvest during the RPP. All of these entities were assumed to be small on the basis of studies suggesting that crab fishing operations in the BSAI were predominately small entities as defined under the RFA. The analysis did not identify any new projected reporting, record keeping, or other compliance requirements associated with this proposed rule. The analysis did not identify any relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

This action would have no adverse economic impacts on the directly regulated entities; these entities would qualify for an LLP license for which they cannot now qualify. Alternative 1

is the status quo alternative. Under this alternative there would be no regulatory amendment. A vessel would have to have been used during the (a) general qualification period (GQP), the (b) endorsement qualification period (EQP) and the (c) recent participation period (RPP) in order to qualify for an LLP, unless the person qualified for the exception by fishing from January 1, 1998 through February 7, 1998. Transfers of fishing history would not be recognized in the LLP allocation process. This alternative would prevent the entities from qualifying and thus imposes costs on them in comparison with the preferred alternative.

Under Alternative 2, NMFS would adopt a regulatory amendment allowing persons that purchased GQP and EQP fishing history and then fished during the RPP to qualify for a license.

The fishing history of a vessel that can be used as the basis for eligibility for a license under the LLP remains with the vessel until either (1) June 17, 1995, when it vests with the vessel owner, or (2) it is separated by the express terms of a written contract that clearly and unambiguously indicates that the fishing history is transferred or retained. The Council chose June 17, 1995, as the determining date because it coincides with the date the Council recommended the LLP.

Until June 17, 1995, the fishing history remains with the vessel unless separated by a contract. This contract could transfer the fishing history to a person other than the vessel owner. Alternatively, this contract could retain the fishing history in the person who is selling his or her vessel before June 17, 1995. In either case, the contract has separated the fishing history from the vessel. This fishing history would not qualify the holder for a license unless the fishing history meets all the requirements for eligibility.

On June 17, 1995, the fishing history of the vessel, unless already separated by contract, vests in the vessel owner. After June 17, 1995, the vessel owner can transfer that fishing history by contract. A vessel sold after June 17, 1995, does not have a fishing history to use as the basis for license eligibility because its fishing history has vested in the owner and would have to be obtained through the express terms of a written contract.

The Council provided that a person who can demonstrate that a documented harvest of any crab species was made from his or her vessel during the RPP, can join that fishing history with another LLP qualifying fishing history from a different vessel, as long as the LLP qualifying fishing history was

acquired, or a contract to acquire that fishing history was entered into, by 8:36 a.m. PST on October 10, 1998.

Combining of fishing histories is not allowed under the following circumstances: piecing together GQP and EQP catch histories from different vessels; purchasing the RPP fishing history to combine with GQP and EQP; and, purchasing GQP and EQP after the RPP to combine with an RPP qualification earned before January 1, 1998.

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

#### List of Subjects in 50 CFR part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 23, 2003.

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For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended to read as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

**Authority:** Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.4, paragraphs (k)(5)(iii)(A) and (k)(5)(iv) are revised to read as follows:

#### § 679.4 Permits.

\* \* \* \* \*

(k) \* \* \*

(5) \* \* \*

(iii) *Recent participation period (RPP).* (A) The RPP is the period from January 1, 1996, through February 7, 1998. To qualify for a crab species license, defined at § 679.2, a person must have made at least one documented harvest of any amount of crab species from a vessel during the RPP and must have held an LLP qualifying fishing history at the time of that documented harvest. An LLP qualifying fishing history meets the documented harvest requirements at paragraphs (k)(5)(i) and (k)(5)(ii) of this section.

\* \* \* \* \*

(iv) *Exception to allow purchase of LLP qualifying fishing history after the documented harvest in the RPP.* To qualify for an LLP crab species license, a person who made a documented harvest of crab species during the period from January 1, 1998, through February 7, 1998, must have obtained, or entered