

Background

The background information for this action is included in the preamble to the proposed rule (68 FR 22667, April 29, 2003); for Amendment 10, it is in the preamble to the final rule implementing Amendment 10 (66 FR 48813 September 24, 2001); and for the LLP, it is in the preamble to the final rule implementing the LLP (63 FR 52642, October 1, 1998).

This action amends the regulatory language at 50 CFR 679.4(k)(5)(iii) and (iv) to specify that a person who had purchased a LLP qualifying fishing history and then fished with his or her vessel in the recent participation period (RPP) would qualify for a LLP crab species license.

Response to Comments

NMFS received one comment on the proposed rule.

Comment: In order to effectively implement the intent of the proposed rule, an additional correction to 50 CFR 679.4(k)(5) is necessary. The regulatory language at 50 CFR 679.4(k)(5) restricts license issuance to individuals that owned a single vessel that was used to meet the general qualifying period (GQP), the endorsement qualifying period (EQP), and the RPP. This regulatory language also implies that licenses are issued when a vessel meets the eligibility criteria; however, the LLP program is designed to grant licenses to persons that meet the eligibility criteria.

Response: No additional regulatory change is necessary to implement this rule as intended. The comment is correct that persons, rather than vessels, meet the eligibility requirements and receive licenses. The author's concerns are addressed by the definition of "eligible applicant" in 50 CFR 679.2, which clarifies that licenses are issued to persons who used a vessel to fish or who obtained a LLP qualifying fishing history. The regulatory language at 50 CFR 679.4(k)(5) does not require a single vessel to meet the GQP, EQP, and RPP requirements. Therefore, an additional regulatory change, beyond the scope of the changes in this rule, is not required to continue to accurately implement the LLP program.

Classification

NMFS prepared a Final Regulatory Flexibility Analysis to evaluate the impacts of this action on small entities, in accordance with the provisions of the Regulatory Flexibility Act of 1980 (RFA), as modified by the Small Business Regulatory Fairness Act of

1996 (5 U.S.C. 604(a)). The purposes of this action were described earlier in the preamble to the proposed rule, published on April 29, 2003 (68 FR 22667).

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule, which was described in the classifications section of the preamble to the proposed rule. The public comment period ended on May 14, 2003. No comments were received on the economic impacts of the rule.

NMFS issues a final rule to amend eligibility criteria for BSAI crab species licenses issued under the LLP. LLP licenses are required for participation in the BSAI crab fisheries. The intended effect of this action is to allow three entities with recent participation in the BSAI crab fisheries to qualify for an LLP crab species license. This action is necessary to allow these entities to participate in the BSAI crab fisheries in a manner intended by the Council.

The entities directly regulated by this action are defined as those that did not qualify for an LLP crab species license under the regulations implementing Amendment 10, but that would now qualify under this final rule. 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. Under the rule, each of these entities will qualify for a license that they do not currently qualify for, to allow these entities to continue to participate in the BSAI crab fisheries. All of these entities were assumed to be small entities on the basis of studies suggesting that crab fishing operations in the BSAI were predominately small entities as defined under the RFA.

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities.

Each of these three small entities will benefit by qualifying for a LLP crab species license. This action has no adverse impacts on these entities. This action mitigates an adverse impact that would occur if the status quo were to continue because this rule allows these entities to continue to participate in the BSAI crab fisheries.

A status quo alternative to the action was considered but not adopted. Under the status quo, these entities would be denied LLP licenses. Status quo would not achieve the stated objective of the Council for this action, nor would it minimize the potential adverse

economic burden on the small entities identified as subject to direct regulation by this action.

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 30, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For reasons set out in the preamble, 50 CFR part 679 is 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: 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 LLP crab species from a vessel during the RPP and must have held a LLP qualifying fishing history at the time of that documented harvest. A LLP qualifying fishing history meets the documented harvest requirements at paragraphs (k)(5)(i) and (k)(5)(ii) of this section.

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(iv) Exception to allow purchase of LLP qualifying fishing history after the documented harvest in the RPP. To qualify for a LLP crab species license, a person who made a documented harvest of LLP crab species during the period from January 1, 1998, through February 7, 1998, must have obtained, or entered into a contract to obtain, the LLP qualifying fishing history by 8:36 a.m. Pacific time on October 10, 1998,

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