

voluntary. Under the program, NMFS will pay participants for withdrawing vessels from fishing, relinquishing fishing licenses, and surrendering fishing histories. NMFS will finance the program's \$100 million cost with a 30-year loan to be repaid by post-reduction fishermen.

DATES: The final rule is effective January 12, 2004.

ADDRESSES: Copies of the Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis are available from Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this final rule may be submitted to Michael L. Grable at the above address and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

Anyone wishing to contact the NMFS Restricted Access Management Program (which issues crab species fishing licenses) may do so at this address: Restricted Access Management Program, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, (301) 713-2390.

SUPPLEMENTARY INFORMATION:

Statutory and Regulatory Background

The Consolidated Appropriations Act of 2001 (Pub. L. 106-554, section 144) directed the Secretary of Commerce to establish a \$100 million fishing capacity reduction program (crab program) in the Bering Sea/Aleutian Islands king and Tanner crab fishery (crab fishery). That law was subsequently amended twice (Pub. L. 107-20, section 2201; and Pub. L. 107-117, section 205) to clarify the vessels eligible to participate in the crab fishery and change the crab program's funding from a \$50 million appropriation and a \$50 million loan to a \$100 million loan (reduction loan). The authority for making loans of this type is sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g)(MMA)(Title XI).

The North Pacific Fishery Management Council (Council) developed, and NMFS implemented, the crab FMP under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*)(Magnuson-Stevens Act). The Council developed Amendment 5 to the crab FMP to establish a license limitation program

(LLP) for the crab fishery (63 FR 52642). The Council also developed Amendment 10 to the crab FMP which further defined the eligibility criteria for crab LLP licenses (66 FR 48813). NMFS implemented Amendment 10 and later corrected the implementing regulation's eligibility criteria (68 FR 46117). Regulations implementing the crab FMP govern the fishery's management.

Subpart L to 50 CFR part 600, a framework rule promulgated pursuant to section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a(b)-(e)), governs fishing capacity reduction in general. NMFS publishes this rule as a new § 600.1018 appearing immediately after the framework rule's last existing section.

Primary Statutory Objective

Section 144 of Pub. L. 106-554 established the crab program's primary objective as reducing "the fishing capacity in the BSAI crab fisheries by permanently reducing the number of license limitation program crab licenses"

Summary of Proposed Rule and Response to Comments

On December 12, 2002, NMFS published proposed regulations to establish this crab program (67 FR 76329). The preamble to the proposed rule provides additional information on the program as it was proposed. NMFS extended and later reopened the proposed rule's public comment period.

NMFS received comments from 28 entities. Comments were evenly distributed among individuals and organizations representing the views of many parties. The comments generally supported the crab program, but some disagreed with proposed rule aspects. The following is a summary of the comments and NMFS' responses.

Comment 1: Three comments involve the definition of the term "reduction vessel". Two of these suggest redefining the term "reduction vessel" to mean the vessel currently designated on a crab reduction permit. The other suggests expanding the definition to include vessels which replaced other vessels under the Amendment 10 exceptions.

Response: NMFS structured the proposed rule to make the majority of crab LLP license holders eligible to participate in the crab program. The comments suggest, however, that the proposed rule might exclude some holders who either qualified for their LLP crab licenses under the Amendment 10 exceptions or transferred these licenses, after their issuance, to vessels other than those whose catch histories gave rise to the

licenses. Accordingly, NMFS has revised the proposed rule to better accommodate license holders in these circumstances.

The proposed rule defined the term "reduction vessel" as the vessel whose crab fishing history during the FMP's three qualification periods gave rise to an LLP crab license. This was the reduction vessel for all crab program purposes (e.g., loss of fishing privileges, loss of crab fishing history, bid scoring, and reduction loan apportionment). The final rule, however, replaces the term "reduction vessel" with two separate terms, "reduction/privilege vessel" and "reduction/history vessel".

In the final rule, a reduction/privilege vessel is the vessel designated on a crab LLP license on the date of the final rule's publication in the **Federal Register** and a reduction/history vessel is the vessel whose catch history gave rise to the crab LLP license. In many cases, the reduction/privilege vessel and the reduction/history vessel will be the same vessel, but the distinction between these two reduction vessel functions will better accommodate license holders in the circumstances these comments involve. The reduction/privilege vessel no longer has any significance for any crab program purpose other than the loss of fishing privileges, and the reduction/history vessel is determinative for all other crab program purposes which involve fishing history.

Comment 2: One comment suggests redefining the term "crab reduction permit" to mean a bidder's non-interim crab LLP license plus all of its predecessor history.

Response: NMFS has resolved this issue by adding the terms "reduction/history vessel" and "reduction fishing history".

Comment 3: One comment suggests redefining "crab reduction history" as all crab fishing history giving rise to or accruing under a crab reduction permit.

Response: NMFS has resolved this issue by adding the term "reduction fishing history".

Comment 4: One comment suggests modifying the term "bid crab" to recognize that documented harvests of crab for crab program purposes may have been made from several different vessels.

Response: NMFS agrees and has appropriately revised the final rule.

Comment 5: Five comments involve the confidentiality of Alaska's fish ticket data.

Two of these suggest adding a final rule provision requiring bidders to waive confidentiality for the crab fishing history associated with their bids, primarily as a way of providing