

more accurate information to voters in the crab program referendum. Two others suggest a provision allowing the disclosure of crab fishing histories to potential bidders. The last suggests that NMFS and the State of Alaska resolve confidentiality issues affecting the crab program.

Response: Alaska law (AS 16.05.815) make the fish ticket data confidential. Neither NMFS nor State officials have authority to use the State's fish ticket data inconsistently with the State's law. Accordingly, NMFS cannot accommodate these comments.

Comment 6: One comment suggests that NMFS review Alaska's fish ticket data to ensure they reflect post-landing adjustments to landing data.

Response: The crab program must rely on the State's data, and NMFS cannot review them for this purpose.

Comment 7: Thirteen comments addressed the five-year period for determining "bid crab".

Ten of these agreed with the proposed rule's provision in this respect. Two disagreed with the proposed rule's provisions and suggested that a more appropriate period was the most recent five-years in which a bidder's reduction/history vessel actually harvested crab in each endorsement fishery (rather than the most recent five-year period during which each endorsement fishery was open for directed fishing). The last suggests the final rule provide for this period in some area/species endorsement fisheries to mirror certain years in the Council's proposed crab rationalization plan.

Response: The proposed rule defined the term "bid crab" as the documented harvest of crab during the most recent 5 years of a 10-year period, beginning on January 1, 1990, and ending on December 31, 1999, during which each of the reduction endorsement fisheries were open. NMFS believes this is the fairest approach most consistent with the crab program's authorizing legislation as well as the approach most closely resembling certain years in the Council's proposed crab rationalization plan. The crab program's authorizing statute specifies the beginning and ending date of the 10-year period, and NMFS has no authority to provide otherwise.

Comment 8: Ten comments discuss the stacking of more than one crab LLP license and associated crab fishing histories on a single reduction vessel. Nine of these suggest NMFS accommodate stacking for crab program bidding purposes. One asked how NMFS would provide for this if it were allowed.

Response: NMFS believes each crab program bid should include only one crab reduction permit and the crab fishing history which gave rise to it. Stacked crab LLP licenses and their future disposition is a matter for fisheries managers' resolution.

Comment 9: Three comments suggest the final rule provide the non-crab reduction permit component of a bid's reduction fishing interest be restricted to the reduction vessel's non-crab licenses and exclude any halibut/sablefish individual fishing quota (IFQ).

Response: NMFS believes the crab program's legislative authority requires bidders to relinquish all fishing licenses, permits, or other privileges they hold which were issued based on the fishing histories of the bids' reduction/history vessels. Consequently, each bidder holding halibut/sablefish IFQ on the date this final rule is published in the **Federal Register** must relinquish the IFQ if its issuance was based on the fishing history of the bidder's reduction/history vessel.

Comment 10: One comment suggests five specific technical clarifications. These include: inserting "Bering Sea and Aleutian Islands (BSAI)" before "crab species" in 50 CFR 600.1018(a); inserting "BSAI" before "crab" in 50 CFR 600.1018(b); striking paragraph "(h)" and inserting paragraph "(i)" in 50 CFR 600.1018(h)(2), (h)(4), and (h)(6); striking "and" at the end of 50 CFR 600.1018(h)(4); and striking paragraph "(i)(1)" and inserting paragraph "(j)(1)" in 50 CFR 600.1018(j)(2).

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

Comment 11: One comment suggests NMFS revise the final rule to clarify that co-bidders are not required for non-crab reduction permits.

Response: NMFS agrees and has appropriately revised the final rule. There are no co-bidders for non-crab reduction permits because non-crab reduction permits are restricted to those for which bidders were the holders of record on the date this final rule is published in the **Federal Register**.

Comment 12: One comment states that the proposed rule unfairly omits crab vessels under 32 feet (9.75 meters) as well as parties without crab LLP licenses.

Response: The authorizing statute established the crab program's eligibility criteria and does not allow NMFS to accommodate this comment.

Comment 13: One comment suggests the definition of "bid crab" does not include the crab fishing histories of vessels that were lost or destroyed and subsequently replaced by other vessels.

Response: NMFS intended the proposed rule's definition of "bid crab" to do so and has appropriately revised the proposed rule to remove any ambiguity about this.

Comment 14: Nine comments involve lost or destroyed vessels and their reduction fishing histories. Eight of these suggest bids involving lost or destroyed vessels require existing (i.e., neither lost nor destroyed) reduction vessels that lose their fishing privileges.

Response: NMFS agrees that each bid requires an existing reduction vessel that loses its fishing privileges. In the final rule, this is the reduction/privilege vessel. NMFS believes this is a matter of equity. Most bidders will have existing reduction/privilege vessels that will lose their fishing privileges. Allowing lost or destroyed vessels to be reduction/privilege vessels for this purpose would allow a minority of bidders to receive value for something which no longer has any value. Moreover, casualty insurance has in all likelihood already compensated most of those whose vessels were previously lost or destroyed.

Comment 15: Five comments suggest that the crab program make no exceptions beyond those provided in Amendment 10 for lost or destroyed vessels or crab LLP licenses acquired through fishing history transfers.

Response: NMFS agrees. Neither the proposed nor the final rule makes any such exceptions.

Comment 16: One comment requests that NMFS report crab program results by "region".

Response: NMFS will report crab program results only by reduction endorsement fishery and by the crab fishery as a whole.

Comment 17: One comment asks how the crab program accommodates the captain's share provisions of the Council's crab rationalization plan.

Response: The crab program does not accommodate this provision and makes no provision for captains' shares because NMFS has no statutory authority to do so.

Comment 18: One comment asks what constitutes the reduction loan borrower.

Response: After NMFS completes the crab program, all reduction fishery license holders under whose licenses vessels land crab and whose fees begin repaying the reduction loan are collectively the reduction loan borrower. Neither the reduction loan nor its collective borrower are conventional. The reduction loan and its repayment method are statutory. There are no promissory notes, mortgages, or other loan security documents. No individual is responsible