

for repaying any specific loan portion. After the fees commence, the first ex-vessel purchasers of crab from the reduction fishery automatically deduct the fees from trip proceeds before paying the proceeds' balance to the parties otherwise entitled to them. No individual's assets secure the loan's repayment (although nonpayment, for whatever reason, of the fees could subject an individual's assets to enforced payment of any unpaid fees).

Comment 19: One comment suggests the final rule clarify whether Community Development Quota landings are subject to the reduction loan repayment fees.

Response: Community Development Quota landings are subject to the fees.

Comment 20: One comment objects both to the statutory method of collecting the reduction loan repayment fees and the capacity reduction framework regulation provisions to which collection of the fee is subject.

Response: NMFS has no alternative to using the statutory method and believes the framework provisions in this respect are reasonable and necessary.

Comment 21: One comment suggests the final rule provide that the crab program not result in crab catcher processors using a greater share of total allowable crab catches after reduction than they did before reduction due to the likelihood that most crab program bids will involve crab catcher vessel delivering ashore.

Response: This is a voluntary program, and NMFS makes no bidding distinction between crab catcher processors and crab vessels delivering their catches ashore. The Council is the proper forum for dealing with this issue.

Comment 22: One comment suggests that the final rule provide for crab catcher processors' relinquishing their processing histories.

Response: NMFS has no statutory authority to do this as part of the crab program.

Comment 23: One comment requests clarification of any second referendum's basis.

Response: A second referendum may occur, at NMFS' discretion, if the first referendum fails. The general basis would be the expectation that a second round of bids might result in lower bid amounts producing greater capacity reduction per dollar of reduction cost than the first round of bids and, consequently, might improve the likelihood of a second referendum success.

Comment 24: One comment suggests the final rule provide for paying creditors whose security includes

vessels or licenses involved in the crab program.

Response: NMFS believes the proposed rule made adequate provision for public notice to secured creditors.

Comment 25: One comment suggests the final rule provide for including the holders of interim crab licenses in the crab program based on whatever portions of their fishing histories are undisputed.

Response: The authorizing statute restricts the crab program to non-interim crab LLP license holders, and NMFS has no authority to provide otherwise.

Comment 26: One comment suggests releasing, before conducting the fee referendum, aggregate data about bids involving affiliated fishing interests.

Response: NMFS does have no way of knowing which bidders may be affiliated with other bidders.

Comment 27: One comment suggests reduction vessels should not lose their fishing privileges in fisheries other than the reduction fishery.

Response: The authorizing statute requires that reduction/privilege vessels lose their worldwide fishing privileges, and NMFS has no discretion in this matter.

Comment 28: One comment suggests the reduction loan be prorated over the various crab area/species endorsement fisheries.

Response: The authorizing statute specifically provides for doing this, and the proposed rule provided for it in accordance with the statute.

Comment 29: One comment was concerned that the crab program might result in revoking crab fishing history other than the crab fishing history which may be used as the basis of any future crab rationalization plan.

Response: The crab program will result in revoking the complete crab fishing history of each crab reduction/history vessel.

Comment 30: One comment suggests the crab program involve relinquishment of the worldwide fishing privileges of what, under the final rule, are reduction/privilege vessels.

Response: Both the proposed rule and the final rule so provide.

Changes to Proposed Rule

Although public comment about the proposed rule did not address the issue of when NMFS notifies crab program bidders whether NMFS accepted or rejected their bids, the final rule differs in this respect from the proposed rule. The proposed rule provided for this notification occurring before the referendum about the reduction loan repayment fee. Based on interim public comment during the Pacific Coast

groundfish fishing capacity reduction program (68 FR 42613), however, NMFS now believes that postponing this notice until after the referendum has already occurred may help neutralize any potential which the proposed rule aspect might have had for biasing referendum results. If referendum voters know before they vote whose bids NMFS accepted and whose bid NMFS rejected, they may vote differently than they otherwise would have if they did not know whose bids NMFS accepted and whose bids NMFS rejected.

The following reflects the minor or clarifying revisions of the proposed rule which the final rule incorporates:

(1) NMFS revised the term "reduction vessel" by replacing it with two separate terms, "reduction/privilege vessel" and "reduction/history vessel".

Consequently, the term "reduction vessel" does not appear anywhere in the final rule. The effect of this revision is that the vessel, for loss of fishing privileges purposes, will be the vessel designated on a crab LLP license at the time the final rule is published in the **Federal Register**; and the vessel, for loss of fishing history, bid scoring, and loan apportionment purposes, will be the vessel (or in some cases, vessels) whose fishing history gave rise to a crab LLP license. In most cases, the vessels will be the same for both purposes; in other cases, the vessels for each purpose will be different.

(2) NMFS included a new term, "reduction fishing history", in order to clarify that the fishing history component of each bidder's reduction fishing interest includes the complete documented harvest, upon any part of which NMFS based issuance of the crab LLP license included as a crab reduction permit in the bid, plus such fishing history, after the issuance of such crab LLP license, of any other vessel upon which the bidder used such crab reduction permit;

(3) NMFS clarified that co-bidders are not required for non-crab reduction permits;

(4) NMFS eliminated any ambiguity about whether replacement vessels are, under appropriate Amendment 10 exceptions, reduction/history vessels;

(5) NMFS added a definition for the term "replacement vessel" in order to clarify certain aspects of multiple reduction/history vessels under the exceptions to Amendment 10; and

(6) NMFS revised the bidder acceptance/rejection notice provisions to postpone this notice until after the crab program's referendum.

Finally, NMFS herein clarifies that it has no direct authority to revoke worldwide fishing privileges. The U.S.