concession fees, it is intended to make eligibility standards fairer. To the extent that it increases or decreases size standards for certain firms, it may affect the potential eligibility of certain individual firms. However, we do not believe that these changes will affect a large number of firms or overall DBE participation in airport concessions.

Paperwork Reduction Act

This NPRM does not contain information collection requirements subject to the Paperwork Reduction Act.

Federalism

The rule does not have sufficient Federalism impacts to warrant the preparation of a Federalism assessment. While the rule concerns the activities of state and local governments in DOT financial assistance programs, the rule does not significantly alter the role of state and local governments vis-a-vis DOT from the present part 23.

List of Subjects in 49 CFR Part 23

Administrative practice and procedure, Airports, Civil rights, Concessions, Government Contracts, Grant programs—transportation, Minority business, Reporting and recordkeeping requirements.

Issued this 26th day of November 2002, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 02–31338 Filed 12–11–02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 020424095–2095–01, I.D. 032801B]

RIN 0648–AP25

Fishing Capacity Reduction Program for the Crab Species Covered by the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) proposes regulations for a fishing capacity reduction program in the fishery for the crab species managed under the Bering Sea/Aleutian Islands King and Tanner Crabs Fishery Management Plan. This proposed rule would establish a program to reduce excess capacity and promote economic efficiency in the crab fishery. It is put forth under both special legislation and existing NMFS regulations governing fishing capacity reduction programs. The program's objectives include: increasing harvesting productivity for post-reduction fishermen (i.e., those harvesters remaining in the fishery after capacity is reduced), helping conserve and manage fishery resources, and encouraging rationalization of harvesting effort. Participation in the program would be voluntary; and payments would be made for withdrawing vessels from fishing, revoking fishing licenses, and surrendering fishing histories. NMFS would finance the program's $100 million cost with a 30–year loan to be repaid by post-reduction fishermen.

DATES: NMFS must receive comments by January 27, 2003.

ADDRESSES: Mail or fax written comments about this proposed rule to Michael L. Grable. The mailing address is: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282. The fax number is (301) 713–1306. NMFS will not accept e-mail or internet comments.

If a comment involves any aspect of the proposed rule's collection of information requirements, send the comment both to Michael L. Grable and to the National Oceanic and Atmospheric Administration Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Anyone may obtain, from Michael L. Grable, the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis for this proposed rule.

Anyone wishing to contact the 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 Alaska 99802–1668. The fax number is (907) 586–7354.

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

SUPPLEMENTARY INFORMATION:

Statutory and Regulatory Background

The Consolidated Appropriations Act 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. Subsequently, that law was amended twice (Pub. L. 107–20, section 2201; and Pub. L. 107–117, section 205) to further clarify the pool of 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). NMFS authority to make this loan resides in sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g)(MMA)(Title XI).

The Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (crab FMP) was developed by the North Pacific Fishery Management Council and approved and implemented by NMFS under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*)(MSA). The Council also developed Amendment 10 to the crab FMP which further defined the eligibility criteria for crab license limitation program (LLP) licenses. Regulations implementing the crab FMP govern management of this fishery.

Fishing capacity reduction programs, generally, are governed by subpart L to 50 CFR part 600, a framework rule promulgated pursuant to section 312 of the MSA (16 U.S.C. 1861a(b)-(e)). NMFS proposes this rule as a new § 600.1018 appearing immediately after the framework rule's last existing section.

Primary Statutory Objective

Section 144 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 . . . .''

Key Steps

The proposed crab program is complicated and the following listing of key steps is intended to facilitate understanding by the public. NMFS would:

(a) Propose the regulations;

(b) Publish final regulations;

(c) Invite crab program bids;

(d) Receive and tally the bids;

(e) Accept the bids;

(f) Conduct a referendum on the results of the bidding;

(g) Notify referendum voters and accepted bidders of the referendum results;

(h) Make reduction payments under reduction contracts; and

(i) Collect reduction loan repayment fees.

Note: Any time the word ''we'' is used in this document, it refers to NMFS.

I. Crab Program Overview

$100 million would be available to pay crab license holders to relinquish their crab fishing capacity. NMFS would issue an invitation to bid for reduction payments totaling up to $100 million. Qualifying crab license holders who wanted to relinquish their crab fishing capacity would choose the dollar amounts for which they were willing to do so. They would then bid in a reverse auction by offering to relinquish their crab fishing capacity in return for reduction payments equal to their bid amounts.

NMFS would express each bid amount as a percentage of the value of each bidder's crab harvests during a certain period. NMFS would use this percentage to determine which bids to accept. NMFS would first accept the bid with the lowest percentage, and then successively accept each bid with the next lowest percentage until the entire $100 million had been paid out or there were no further bids to accept. Bid acceptances would create irrevocable reduction contracts between the United States and the accepted bidders, subject only to a referendum approving a post-reduction crab landing fee for repaying the reduction loan.

After determining how much of the prospective reduction loan each of the crab area/species endorsement fisheries would have to repay, NMFS would hold a referendum in which qualifying crab license holders vote to approve or disapprove the landing fee. If at least two thirds of the votes cast were in favor of the fee, the referendum would be successful, and the fee would be approved.

After a successful referendum, NMFS would make the reduction payments to the accepted bidders and finalize the relinquishment of their crab fishing capacity. Post-reduction harvesters would pay a fee up to 5% of the value of their future crab landings. Persons who must, under the State of Alaska's reporting requirements, complete and file fish tickets for harvested crab would collect the fee and forward all fee revenue to NMFS. The fee revenue is applied to repaying the 30–year reduction loan.

The reduction loan's original principal amount would be the total of all reduction payments. The reduction loan's interest rate would be 2 percent higher than the rate at which NMFS would pay interest on the money it borrowed from the U.S. Treasury to make reduction payments. The reduction loan's interest rate would be fixed, and its term would be 30 years. There would be no prepayment penalty.

II. Program Specifics

A. Reduction Component Requirements

Each crab program bidder would offer to relinquish these reduction components:

1. A non-interim crab LLP license issued under 50 CFR 679.4(k)(5) (crab reduction permit);
2. The fishing history that gave rise to the crab license (crab reduction history);
3. Any non-crab fishing license or permit derived from the reduction vessel's fishing history (non-crab reduction permit);
4. The fishing history that gave rise to the non-crab reduction permit (non-crab reduction history);
5. Every other worldwide fishing privilege (reduction vessel privilege) of the crab fishing vessel whose fishing history gave rise to the crab reduction permit (reduction vessel); and
6. Every other claim associated with the reduction components that could qualify anyone for any present or future limited access system fishing license or permit in any U.S. fishery (reduction claim). The reduction claim would include any harvesting privilege or quota allocation under any present or future individual fishing quota system.

Crab Reduction Permit Requirements

The crab reduction permit that each bid offers would have to be a crab license that is non-interim at the time of bidding. The crab reduction permit would have to be endorsed for one or more of the six crab area/species endorsements other than the area/species endorsement for Norton Sound red king and blue king crab (Norton Sound fishery). A permit endorsement allows fishing for a specific species of king or Tanner crab in specific geographical areas in the crab fishery. Although the reduction permit may be endorsed for the Norton Sound fishery, reduction permits endorsed solely for the Norton Sound fishery may not be included in a bid because only the six reduction endorsement fisheries constitute the reduction fishery.

With two exceptions, the crab reduction permit must have been derived from the fishing history accrued on the reduction vessel during the general qualification period (GQP), endorsement qualification period (EQP), and recent participation period (RPP). The GQP, EQP, and RPP are the time periods used under the license limitation program to determine license eligibility on the basis of catch history. The existing NMFS regulations implementing Amendment 10 to the crab FMP require that the crab fishing history giving rise to a crab license be earned on a single crab fishing vessel.

The first exception provided in (50 CFR 679.4(k)(5)(iii)(B)(*3*)) applies to persons whose vessel was used to meet the GQP and EQP crab harvest requirement but could not be used to meet the RPP crab harvest requirement because the vessel had been lost or destroyed and was unavailable during the RPP. In this case, persons may meet the RPP requirement by making a documented harvest of crab at any time during the period after a vessel was lost or destroyed through January 1, 2000.

Anyone making such a documented crab harvest could have used either a vessel salvaged and returned to service after the RPP, or a different vessel. If the documented harvest was made from a salvaged vessel, (1) the salvaged vessel would be the reduction vessel and (2) the crab reduction history would be the salvaged vessel's documented harvest of crab. If made from a different vessel, however, (1) the reduction vessel would be the different vessel and (2) the crab reduction history would be the total of the lost or destroyed vessel's documented harvest of crab through the date of the vessel's loss or destruction plus the different vessel's documented harvest of crab after that date.

The second exception provided for in (50 CFR 679.4(k)(5)(iv)) applies to persons (1) whose vessel made a documented harvest of crab during the RPP period (January 1, 1996, through February 7, 1998), and (2) who obtained a different vessel's crab fishing history which met the GQP and EQP documented crab harvest requirements or—by 8:36 A.M., Pacific standard time, on October 10, 1998—entered into a contract to do so.

In this case, (1) the reduction vessel would be the vessel from which the documented crab harvest was made during the RPP and (2) the crab reduction history would be the total of that vessel's documented harvest of crab after December 31, 1994 (i.e., the date on which the EQP ended), plus the acquired documented harvest of crab through December 31, 1994.

Crab Reduction History Requirements

The crab reduction history would have to be the complete crab fishing history of the reduction vessel, including the crab fishing history during the GQP, EQP, and RPP that gave rise to the crab reduction permit.

Non-Crab Reduction Permit Requirements

The non-crab reduction permit offered would be any fishing license or permit for any species other than crab (1) that

was derived from the fishing history of the bidder's reduction vessel, and (2) held on the date that this rule is effective.

Non-crab Reduction History Requirements

The non-crab reduction history offered would be the complete fishing history of the reduction vessel that gave rise to any non-crab reduction permit.

Reduction Vessel Privilege Requirements

The reduction vessel privilege offered would have to include:

1. The reduction vessel's fisheries trade endorsement under the Merchant Marine Act, 1936 (46 U.S.C.A. 12108);
2. The reduction vessel's qualification for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement under foreign registry or operation under the authority of a foreign country; and
3. Any other privilege to ever use the reduction vessel to fish anywhere in the world.

The reduction vessel in each bid would have to be in existence at the time of bidding.

B. Qualifying Bidders and Co-Bidders

The persons qualified to bid for reduction payments (qualifying bidders) would be the holders of record of the crab reduction permits.

NMFS regulations do not, however, require crab license holders either to own the crab fishing vessels used with their crab licenses or to retain the vessels' crab fishing histories. Theoretically the licenses, vessels, and histories can be conveyed independently of each other; and different persons may own, hold, or retain them. Consequently, it is possible that some bidders may not own the reduction vessels, hold the non-crab reduction permits, or retain either the crab or non-crab reduction histories that this proposed action would require bids to offer. By making provision for co-bidders who own or hold some of the required reduction components, this proposed rule would accommodate these circumstances.

If the qualifying bidder owned, held, or retained at the time of bidding each of the reduction components, the qualifying bidder would bid alone (i.e., there would be no co-bidder).

If, however, a person other than the qualifying bidder owned or held at the time of bidding either the required reduction vessel or the required non-crab reduction permit, that person could be a co-bidder. In this case, the qualifying bidder and the co-bidder would bid together.

The proposed rule would not, however, allow a co-bidder for the crab reduction permit or for the crab or non-crab reduction histories.

In summary:

1. A qualifying bidder bidding alone would have to own, hold, or retain all of the bid's reduction components;
2. A co-bidder bidding together with a qualifying bidder could own or hold only the bid's reduction vessel or non-crab reduction permit; and
3. A qualifying bidder bidding together with a co-bidder would still have to hold or retain the bid's crab reduction permit and the bid's crab and non-crab reduction histories.

C. Qualifying Referendum Voters

The persons qualified to vote in the crab program fee referendum (qualifying voters) would be the holders of record at the time of voting of either interim or non-interim crab licenses endorsed for one or more of the reduction endorsement fisheries. The crab licenses could also be endorsed for the Norton Sound fishery, but no person whose license was endorsed solely for the Norton Sound fishery could be a qualifying voter.

D. Summary of How Crab Licenses Qualify Bidders and Voters

Each person who is the record holder of a non-interim crab license endorsed for one or more reduction endorsement fisheries would be both a qualifying bidder and a qualifying voter. Each such person could bid and vote. For bidding purposes, however, the person's crab license would also have to meet the reduction crab permit requirements.

Each person who is the record holder of an interim crab license endorsed for one or more reduction endorsement fisheries would be a qualifying voter but not a qualifying bidder. Each such person could vote but not bid.

Each person who is the record holder of a crab license endorsed solely for the Norton Sound fishery would be neither a qualifying bidder nor a qualifying voter and could neither bid nor vote.

Qualifying bidders must be the record holder of their crab reduction permits at the time of bidding, and qualifying voters must be the record holders of their crab licenses at the time of voting.

III. Reduction Process Overview

If NMFS adopted this proposed rule, we would begin the reduction process by publishing a notification in the **Federal Register** listing the crab license holders who, on the notification's date, appear to be qualifying bidders, qualifying voters, or both.

By publishing in the **Federal Register** an invitation to bid and mailing the invitation to bid to each qualifying bidder, we would next invite the qualifying bidders to submit bids. Qualifying bidders could then bid by irrevocably offering to the United States their reduction components, in the manner that this proposed rule would require, in return for reduction payments from the United States in amounts that the bidders would have determined. We would score the bid offers, rank them in a reverse auction, and accept the bid offers with the lowest scores until either the maximum reduction cost ($100 million) were committed or there were no additional acceptable bids. Our acceptance of bid offers would create binding reduction contracts between the accepted bidders and the United States.

Bid acceptance would establish the amount of capacity that the accepted bids would reduce, the cost of reducing that capacity, and the reduction loan sub-amounts that each reduction endorsement fishery would have to repay. Based on these data, NMFS would next hold a referendum to determine whether qualifying voters would approve the post-reduction landing fee necessary to repay the reduction loan.

An unsuccessful referendum would excuse the performance of all reduction contracts, and the crab program would cease, unless NMFS decided to later issue another invitation to bid and hold another referendum. A successful referendum, however, would be followed by publishing a notification in the **Federal Register**, after which NMFS would tender reduction payments, effect relinquishment of the reduction components, and disburse the reduction payments. With the exception of post-reduction license holders subsequently repaying the reduction loan, reduction payment tender and disbursement would conclude the crab program.

Upon reduction payment tender, NMFS would permanently revoke the surrendered crab reduction permits and non-crab reduction permits. The Secretary of Transportation would permanently revoke the reduction vessels' fisheries endorsements and make the reduction vessels ineligible to transfer to foreign flags. The reduction vessels would be permanently ineligible to participate in any fishery worldwide, and the bidders would have contractually agreed to permanently operate the reduction vessels only under the U.S. flag. NMFS would ensure that the bidders and the reduction vessels

forever relinquish any claim based on the reduction components that might otherwise qualify any person or the reduction vessels for any future limited access system fishing permits in U.S. fisheries. This would include any fishing privilege or quota allocation under any present or future quota allocation system.

IV. Process Specifics

A. Notification to Crab License Holders

If any person held multiple crab licenses, we would list that person once for each crab license. NMFS would also list the name and business mailing address of record of each of these crab license holders. NMFS would not list persons who then held crab licenses that were endorsed solely for the Norton Sound fishery. We would use the crab license database of our Restricted Access Management (RAM) Program as the basis of these notification lists.

In addition to the **Federal Register** notification, NMFS would also mail the notification to each crab license holder of record at the holder's business mailing address of record, as well as post the notification at NMFS' headquarters and Alaska Region web sites.

The public would have 30 days to comment about any notification aspect, including: persons we listed, but should not have listed, as license holders (and vice-versa); licenses we listed as non-interim but should have listed as interim (and vice-versa); and incorrect license holder names and/or business mailing addresses.

Any person on this list who is not prospectively a qualifying bidder because the person's crab license is then interim may, nevertheless, subsequently become a prospectively qualifying bidder by changing the person's crab license status from interim to non-interim before submitting a bid. Although NMFS would appropriately update the qualifying bidder list, we would not republish the notification. NMFS would update the list of prospectively qualifying bidders immediately before mailing the invitation to bid and update the list of prospectively qualifying voters immediately before mailing the referendum ballots.

Inclusion on the notification list as a prospectively qualifying bidder would not mean that a bid from that bidder would be one that we could accept. NMFS could not at the time we publish the notification determine whether a later bid from a prospectively qualifying bidder would meet all the crab program's bidding requirements. NMFS could make this determination only after we receive and analyze bids.

B. Correcting the RAM Program's License Records

NMFS would use the RAM Program's license records for all notification and other crab program purposes, including business mailing addresses for all crab program communications. Accordingly, we recommend that any person needing to correct or update the RAM Program's license records consider doing so as soon as possible.

C. Invitation to Bid and Bids

The crab program invitation to bid would specify the exact contractual terms and conditions under which qualifying bidders may make, and NMFS may accept, bid offers. Each bid would have to specify the dollar amount of the reduction payment in return for which the bidder would offer the reduction components in the manner that this proposed rule would require and otherwise fully comply with all the crab program's bidding requirements.

NMFS would publish the bid invitation in the **Federal Register**. We would concurrently mail the bid invitation and a bidding package (including a bidding form) to the address of record of each person on the prospectively qualifying bidder list.

The bid invitation would, among other things, specify:

1. The first date on which bidders could submit bids;
2. The exact manner in which they would have to do so;
3. The last date by which NMFS would have to receive bids; and
4. The bid expiration date upon which each bid would automatically expire if NMFS had not accepted the bid before that date.

The bid invitation would contain the reduction contract's entire terms and conditions. Each qualifying bidder who responded by submitting a bid would make an irrevocable reduction offer under the bid invitation's terms and conditions. These terms and conditions would be neither negotiable nor subject to modification.

Although bidders could not revoke their bid offers, any bid offers that NMFS did not accept before the bid expiration date would automatically expire on that date.

All potential bidders should note that NMFS would, among other things, require each bid to include a copy of each reduction vessel's official document (which the National Vessel Documentation Center issues for Federally documented vessels) and a copy of each crab and non-crab reduction permit (which, with the exception of reduction permits issued for non-Alaskan fisheries, the RAM Program issues). NMFS recommends that all potential bidders arrange to have on hand, well before NMFS would issue the invitation to bid, an exact copy of these documents and otherwise be fully prepared to provide all other required bidding information.

Each bidder responding to the bid invitation would have to offer the reduction components in the manner that this proposed rule would require. This would include permanently:

1. Surrendering and revoking the crab reduction permit;
2. Relinquishing the crab reduction history;
3. Surrendering and revoking the non-crab reduction permit;
4. Relinquishing the non-crab reduction history;
5. Revoking the reduction vessel privilege;
6. Agreeing, in the reduction contract, that the owner of the reduction vessel would operate it under U.S. flag or else scrap it; and
7. Relinquishing the reduction claim.

This proposed rule would not require the surrender and revocation of any non-crab licenses or permits (or the fishing histories upon which they were based) that accepted bidders did not hold on the effective date of a final crab program rule. Similarly, accepted bidders would not have to surrender any licenses or permits they might hold that were based on the fishing histories of vessels other than the reduction vessels.

Regardless of its ownership, no reduction vessel could ever again fish for any species anywhere in the world under any conditions. As long as the owner of any Federally-documented reduction vessel abided by the crab program restrictions, NMFS would not require scrapping the reduction vessel. Each post-reduction vessel owner could continue using its reduction vessel for any legal purpose except fishing and could transfer the vessel, subject to all the crab program restrictions, to a new owner. These restrictions would run with the reduction vessel's title and apply to whomever might own the reduction vessel. Any reduction vessel that was not Federally documented would, however, have to be scrapped.

D. Non-crab Reduction Permits Limited

Section 144(d)(1)(B) is ambiguous about which non-crab licenses or permits the crab program must revoke. One interpretation is that the crab program must revoke each non-crab license or permit that may ever have

been issued based on a reduction vessel's fishing history even though a bidder may no longer hold the license or permit. An alternative interpretation is that the crab program need revoke only those non-crab licenses and permits that a bidder still holds at the time we implement the crab program.

This proposed rule adheres to the latter interpretation. Consequently, the reduction components would include only those non-crab reduction permits that were based on reduction vessels' fishing histories and which the bidders still held on the effective date that NMFS adopts a final rule implementing the crab program. This would be equally true for all non-crab reduction histories.

E. Reverse Auction

To obtain the maximum capacity reduction at the least cost, NMFS would use a reverse auction to determine which bid offers we would accept. NMFS would calculate a bid score for each bid and then accept the bid offer with the lowest bid score, followed by each successive bid offer with the next lowest bid score until either there were no more acceptable bids or acceptance of the bid with the next lowest bid score would cause the reduction cost to exceed $100 million.

F. Bid Scoring

NMFS would calculate each bid score by dividing the value of each reduction vessel's documented crab harvest for crab program purposes (bid crab) by each bid amount.

The bid amount for each bid would be the dollar amount for which each bidder offers the reduction components under the bid invitation's contractual terms and conditions.

The bid crab for each bid would be each reduction vessel's 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 and the Norton Sound fishery were open, for any length of time, for directed crab fishing. If, for example, a reduction vessel did not fish for crab in one of the reduction endorsement fisheries during one of the most recent 5 years of this period in which that fishery was open for directed crab fishing, the reduction vessel's documented crab harvest value for that year in that reduction endorsement fishery would be zero.

NMFS would determine bid crab value by multiplying each pound of each reduction vessel's bid crab by the average annual price per pound for each crab species from each of the reduction endorsement fisheries and from the Norton Sound fishery during each year applicable to the reduction vessel's bid crab. We would use the fish ticket poundage data that the State of Alaska maintains and the average ex-vessel crab prices that the State of Alaska annually publishes.

NMFS would exclude several categories of crab from bid crab, for example:

1. Triangle tanner crab, grooved tanner crab, and other commercially insignificant crab species not named in the various crab license area/species endorsement categories;
2. Discarded crab;
3. Crab caught for personal use;
4. Unspecified crab; and
5. Any other crab to which, for whatever reason, NMFS could not assign a poundage or dollar value.

Here is a bid scoring example. If a bid amount were $0.75 million and the bid crab value were $4.5 million, the bid score would be 0.1667 (i.e., $0.75 million divided by $4.5 million). This means that the bid amount would be 16.67 percent of the reduction vessel's bid crab value.

NMFS would accept bid offers with bid scores lower than the 0.1667 in this example before we accepted a bid offer with the 0.1667 bid score. NMFS would accept bid offers with bid scores higher than the 0.1667 in this example after we accepted a bid offer with the 0.1667 bid score.

Bid crab value and bid amount are the only two variables in each bid score. If two or more bid amounts were identical, NMFS would accept the bid with the higher bid crab value because the bid amount would in that bid be a lower percentage of the bid crab value. Persons whose reduction vessels have lower bid crab values should recognize that a combination of higher bid amounts and lower bid crab values could make their bids noncompetitive.

For example, a reduction vessel with a $2.5 million bid crab value would require a bid amount no higher than $499,999.99 (i.e., a bid score of 0.19999) in order to have a better chance of bid acceptance than a reduction vessel with a $5 million bid crab value and a bid amount of $1 million (i.e., a bid score of 0.2).

If two or more bid scores were identical, NMFS would first accept the bid that we first received.

G. Confidentiality of Fish Ticket Data

The State of Alaska's fish ticket data are confidential. Our data-sharing agreement with Alaska requires NMFS to maintain Alaska's data confidentiality requirements. With certain exceptions, Alaska law allows divulging these data only to, or upon the authority of, the harvesting individuals who signed the fish tickets.

Those who sign fish tickets on behalf of the harvesters are sometimes neither crab license holders nor crab vessel owners. Consequently, NMFS could not divulge bid crab poundage to any bidders who did not sign the fish tickets on which those data were based. Instead, NMFS could only divulge the bid crab values and the bid scores. Potential bidders who wish to confirm their bid crab poundage during the bid scoring period would have to make their own arrangements with the State of Alaska (or with the persons who signed the fish tickets on behalf of the harvesting parties).

H. Bid Rejection

NMFS would reject any bid that:

1. Attempted to negotiate or modify any of the bid invitation's terms and conditions or otherwise did not conform to those conditions;
2. Included any crab or non-crab reduction permit holder or reduction vessel owner that was an entity legally different from the permit's holder of record or the vessel's owner of record at the time of bidding;
3. Included any crab or non-crab reduction history that NMFS would have reason to believe a person other than the bidder retained;
4. Included any reduction component that NMFS would have reason to believe was different from those that the crab program would require; or
5. Did not otherwise meet all of the crab program's bidding and other requirements.

NMFS would use the RAM Program's crab license records to determine crab license holders of record (except for permits or licenses that any of our other Regional Offices may have issued) and to determine whether crab licenses qualify as crab reduction permits. NMFS would use the records of the U.S. Coast Guard's National Vessel Documentation Center to determine reduction vessel owners of record. Anyone with a potential crab program interest who needs to correct any of these records in any of these respects should consider doing so as soon as possible.

NMFS would mail a bid rejection notification to each bidder whose bid we rejected but not to any bidder whose bid offer we neither rejected nor accepted. NMFS bid rejection determinations would constitute final agency action.

I. Bid Acceptance

NMFS bid acceptances would, like bid offers, be subject to the bid

invitation's exact contractual terms and conditions.

After accepting bid offers with the lowest bid scores, NMFS would mail acceptance notifications to the accepted bidders and conduct the post-bidding fee referendum.

NMFS bid acceptance determinations would constitute final agency action.

All bid offers that NMFS had neither accepted nor rejected would automatically expire on the bid expiration date.

The RAM Program would not process the transfer of any crab or non-crab reduction permits included in the bids that NMFS had accepted unless and until the Chief of our Financial Services Division advised the RAM Program that the resulting reduction contracts were no longer in effect because a referendum failed to approve the reduction loan repayment fee.

J. Reduction Contracts

NMFS acceptance of bid offers would create binding reduction contracts between the United States and the accepted bidders. Nevertheless, reduction contract performance would be conditioned on a post-bidding referendum approving the reduction loan repayment fee. Each reduction contract would, otherwise, be unconditional at the time NMFS accepted each bid offer.

A post-bidding referendum's approval or disapproval of the reduction loan repayment fee would be an event that neither the accepted bidders nor NMFS could control. A referendum's disapproval of the fee would fully excuse the United States and all accepted bidders from reduction contract performance and would fully discharge all reduction contract rights, privileges, duties, and obligations. This excuse from performance would not apply to any new reduction contracts that might subsequently result from issuing another invitation to bid and accepting other bids.

The period between inviting bids and conducting a referendum would be as short as possible. Accepted bidders could, however, continue fishing as they normally would have fished until NMFS tendered the reduction payments to the accepted bidders. All fishing would have to cease when NMFS tendered the reduction payments, except that accepted bidders could continue fishing in any crab area/species endorsement fishery that was open when NMFS tendered the reduction payments until that fishery first closed after NMFS tendered the reduction payments.

Money damages not being an adequate substitute for actual reduction contract performance, NMFS would pursue any remedy, including the specific performance of reduction contracts, available to us for any attempt to breach a reduction contract. If an accepted bidder breached or attempted to breach a reduction contract, NMFS would nevertheless abide by the reduction contract's terms by making reduction payment and permanently:

1. Revoking the crab and non-crab reduction permits;
2. Effecting relinquishment of the crab and non-crab reduction histories;
3. Revoking the reduction vessel's fisheries trade endorsement;
4. Making the reduction vessel ineligible for placement under foreign registry or operation under a foreign country's authority;
5. Otherwise restricting the reduction vessel in accordance with the crab program's requirements; and
6. Effecting relinquishment of the reduction claim.

NMFS might also seize the reduction vessel and scrap it at the accepted bidder's expense.

K. Referendum

Each referendum voter would have one vote for each qualifying crab license that the voter held. NMFS would mail a referendum ballot and full referendum instructions to each person on our prospectively qualifying voter list. Each voter would get a separate ballot in a separate mailing for each qualifying crab license the voter held. The referendum instructions would include, among other things, the required manner of voting and the last date by which NMFS must receive responsive ballots for them to qualify as referendum votes.

NMFS would also include with each referendum ballot:

1. The total gross revenue during the bid scoring period of the crab reduction permits and reduction vessels that the crab program would prospectively remove from each reduction endorsement fishery;
2. The reduction loan sub-amounts for each reduction endorsement fishery's prospective repayment; and
3. The number of the reduction vessel privileges and the crab and non-crab reduction permits that the crab program would prospectively restrict or revoke.

Because of the need to keep the period between bidding and referendum as short as possible, NMFS would not issue any form of referendum notification other than mailing ballots and voting instructions to persons on the prospectively qualifying voter list. NMFS would, however, post bid acceptance and referendum ballot mailing advices on our headquarters and Alaska Region web sites.

NMFS would neither accept nor count ballots completed or submitted in a manner inconsistent with the referendum instructions. NMFS would be the sole referendum judge, and our referendum determinations would constitute final agency action.

After tallying referendum votes, NMFS would mail the referendum results to all persons who received ballots. The results would include:

1. The number of prospectively qualifying voters;
2. The number of qualifying voters who returned ballots;
3. The number of returned ballots that qualified to be counted as referendum votes;
4. The number of qualified votes for and against the reduction loan repayment fee; and
5. Whether the referendum was successful and approved the reduction loan repayment fee or was unsuccessful and disapproved the fee.

If the referendum were successful, this mailing would also notify accepted bidders that the binding reduction contracts between them and the United States would then be final, unconditional, and subject to full and specific performance.

If the referendum were unsuccessful, NMFS would decide whether to issue a new invitation to bid, whose bidding results would require another referendum. The objective of any new invitation to bid would be bidding results that reduce more capacity for less cost than the previous bidding results, thus increasing the likelihood of a subsequent referendum approving the necessary loan repayment fee. If NMFS decided to issue another invitation to bid, we would repeat the previous bid invitation and referendum process.

Referendum approval of the fee would require at least two-thirds of the votes actually cast in the referendum to have been cast in favor of the fee. If, for example, only three qualifying voters actually cast referendum votes and two of them cast their votes in favor of the fee, the referendum would have been successful and the fee would have been approved.

L. Reduction Payment Tender

NMFS would not tender reduction payments following a successful referendum until at least 30 days after we had published a reduction payment tender notification in the **Federal Register**. This notification's purpose would be to allow the public to identify, for our subsequent resolution, any issue about: any aspect of any accepted

bidder's eligibility to bid, any accepted bidder's legal authority to have offered any of the reduction components in its bid, or any other aspect of any reduction contract.

Registries exist for reduction vessels, and the holders of crab and non-crab reduction permits are known to NMFS. There are, however, no registries for crab and non-crab reduction histories, and the persons who retain these histories are not known to NMFS. No one records the conveyance of these histories. Disputes could, consequently, exist about the ownership of these histories. Moreover, creditors may have secured or other interests in reduction vessels or reduction permits.

This notification would, consequently, inform the public about:

1. The ownership, holding, or retaining representations upon which accepted bidders based their bid offers; and

2. NMFS' intention to tender reduction payments in return for the surrender and revocation of the crab and non-crab reduction permits, the restriction of the reduction vessel privileges, and the relinquishment of the crab and non-crab reduction histories.

If NMFS received any notice of a claim or other dispute about any ownership, holding, or retention claims that conflict with any accepted bidder's representations, we might not tender reduction payment under that reduction contract until the claim or dispute was successfully resolved.

Creditors or other parties with secured or other interests in reduction vessels or in the crab or non-crab reduction permits are responsible for making their own arrangements with accepted bidders. NMFS would disburse reduction payments to accepted bidders without regard to creditors or other interested parties, unless accepted bidders, in their responses to NMFS reduction payment tenders, choose to provide us with explicit written payment instructions that accommodated creditors' or other persons' interests and authorized NMFS to disburse reduction payments in accordance with those instructions.

As soon as practicable after the 30–day reduction payment tender notice, NMFS would tender reduction payments to accepted bidders by requesting from them specific, written payment instructions. As soon as NMFS receives these payment instructions, we would immediately disburse reduction payments in accordance with the reduction contracts and the payment instructions.

Upon NMFS' tender of each reduction payment, we would:

1. Revoke the crab and non-crab reduction permits (subject to the one previously noted exception about continuing to fish in any reduction endorsement fishery that was open at the time of reduction payment tender);

2. Effect the relinquishment of the crab and non-crab reduction histories by noting in the RAM Program's records (or such other records as may be appropriate for reduction permits issued elsewhere) that these histories have been relinquished and would never again be available to anyone for any fisheries purpose;

3. Notify the U.S. Coast Guard's National Vessel Documentation Center so that it could revoke reduction vessels' fisheries trade endorsements;

4. Notify the U.S. Maritime Administration so that it could make reduction vessels ineligible for the approval of requests to place them under foreign registry or operate them under a foreign country's authority; and

5. Effect all other crab program requirements.

The U.S. Maritime Administration has already issued a final rule (66 FR 55595, December 3, 2001) that makes reduction vessels ineligible for the approval of requests to place them under foreign registry or operate them under a foreign country's authority. That rule amends 46 CFR 221.15.

With the one previously noted exception, each reduction vessel would, concurrently with reduction payment tender, have to permanently cease all further fishing anywhere in the world for any species. Each reduction vessel would, however, have to immediately retrieve all its fixed fishing gear that might remain deployed in any fishery other than the excepted one.

For each accepted bid that involves a co-bidder, NMFS would tender reduction payment jointly to the qualifying bidder and each co-bidder. NMFS would not specify a reduction payment sub-amount for either the qualifying bidder or any co-bidder. This would be a matter of private contract between each qualifying bidder and any co-bidder; and these parties should, before bidding, have written contracts between them that specify the amount of the reduction payment to which each of them would be entitled.

M. Reduction Loan Terms

The reduction loan's original principal amount could not exceed $100 million, but would be less if the reduction cost were less.

The loan's repayment term would be 30 years.

The loan's interest rate would be the U.S. Treasury's cost of borrowing equivalent maturity funds plus two percent. We would determine the loan's initial interest rate when we borrowed from the U.S. Treasury the funds with which to disburse reduction payments. The initial interest rate would change to a final interest rate at the end of the Federal fiscal year in which NMFS borrowed the funds from the U.S. Treasury. The final interest rate would be two percent plus a weighted average, throughout that fiscal year, of the U.S. Treasury's cost of borrowing equivalent maturity funds. The final interest rate would be fixed, and would not vary over the rest of the loan's 30–year term. There would be no pre-payment penalty.

N. Apportioning Reduction Loan Sub-Amounts to Each Reduction Endorsement Fishery

The reduction endorsement fisheries are these six crab area/species endorsements, each of which is further specified in § 679.4(k)(5)(ii)(A)-(F) of this chapter:

1. Aleutian Islands brown king crab;
2. Aleutian Islands red king crab;
3. Bristol Bay red king crab;
4. Bering Sea and Aleutian Islands Area *Chionocetes opilio* and *C. bairdi* crab;
5. Pribilof red king and blue king crab; and
6. St. Matthew blue king crab.

The Norton Sound fishery is not a reduction endorsement fishery.

The formula for determining the reduction loan sub-amount for each reduction endorsement fishery's repayment would be:

1. The bid crab value for all reduction vessels in each reduction endorsement fishery;

2. Divided by the bid crab value for all reduction vessels in all reduction endorsement fisheries;

3. Equals the total bid crab value in each reduction endorsement fishery as a percentage of the total dollar value of bid crab in all reduction endorsement fisheries; and

4. Each of these percentages applied to the total reduction loan amount equals the reduction loan subamount apportioned to each reduction endorsement fishery to which each percentage relates.We would not apportion any of the reduction loan amount to the Norton Sound fishery because that fishery would not be part of the reduction fishery.

O. Reduction Loan Repayment Fee

Revenues from the post-reduction crab landings fee in each reduction

endorsement fishery would repay the reduction loan sub-amount apportioned to each reduction endorsement fishery. Post-reduction crab landings in the Norton Sound fishery would not be subject to the fee.

Although the fee would be up to 5 percent of the ex-vessel value of all post-reduction crab landings in each reduction endorsement fishery, the fee in any reduction endorsement fishery would be less than 5 percent if we projected that a lesser rate could amortize that fishery's reduction loan sub-amount over the reduction loan's 30–year term.

Some reduction endorsement fisheries may not open during some years. Consequently, those reduction endorsement fisheries would not during those years produce fee revenue with which to service the reduction loan sub-amounts apportioned to those reduction endorsement fisheries. However, interest would continue to accrue on the sub-amount principal balances. When this happens, if these reduction endorsement fisheries' fee rates are not already at the maximum 5 percent, NMFS generally would increase the fisheries' fee rates to the maximum 5 percent, apply all subsequent fee revenue first to the payment of accrued interest, and continue the maximum fee rates until all principal and interest payments were current. Once all principal and interest payments were current, NMFS would generally make a determination about adjusting these fee rates.

P. Fee Payment, Collection, and Reporting

There would be three categories of fish sellers and fish buyers who would have to pay the fee, collect the fee, or both pay and collect the fee.

The first category is fish sellers who would have to pay the fee. Any person who harvests any post-reduction crab in any reduction endorsement fishery, but whom the State of Alaska's fisheries reporting requirements do not require to record and submit an Alaska Department of Fish and Game fish ticket for that crab, would be a fish seller for the purpose of paying any fee on that crab and otherwise complying with the requirements of § 600.1013 of this subpart.

The second category is fish buyers who would have to collect the fee. Any person whom the State of Alaska's fisheries reporting requirements require to record and submit an Alaska Department of Fish and Game fish ticket for any crab that another person harvested would be a fish buyer for the purpose of collecting the fee on that crab and otherwise complying with the requirements of § 600.1013 of this subpart.

The third category is persons who would be both fish sellers and fish buyers and who would both have to pay and collect the fee. Any person who harvests any crab, and whom the State of Alaska's fisheries reporting requirements require to also record and submit an Alaska Department of Fish and Game fish ticket for that crab, would be both a fish seller and a fish buyer for the purpose of paying and collecting the fee on that crab and otherwise complying with the requirements of § 600.1013 of this subpart.

Fish buyers would have to collect the fee by deducting it from the gross ex-vessel proceeds of all post-reduction crab landings before the fish buyers pay the proceeds' remainder to fish sellers.

No less frequently than at the end of each business week, fish buyers would have to deposit collected fee receipts in a segregated account at a Federally insured financial institution. On the last business day of each month, fish buyers would have to disburse all deposited fee receipts to a depository that NMFS would have specified.

Fish buyers could retain all interest, if any, earned on deposited fee collections during the time between depositing collected fees and disbursing them to our depository.

In addition to the collected fee deposit and disbursement requirements (further specified in this subpart's § 600.1014), fish buyers would also be subject to certain records maintenance and annual reporting requirements (also specified in this subpart's § 600.1014). All activities associated with fee collection would be subject to our audit.

We would notify all fish sellers and fish buyers, of whom we have knowledge, in each reduction endorsement fishery:

1. When fee payment and collection commence and at what rate;
2. When fee rates change, either up or down; and
3. When fee payment and collection cease.

Fee rates could vary from time-to-time and from one reduction endorsement fishery to another. NMFS would set the fee rate for each reduction endorsement fishery at the level, not to exceed 5 percent of the gross ex-vessel value of post-reduction crab landings, that we from time-to-time projected was required to repay the principal and interest of each reduction loan sub-amount within 30 years.

If any reduction loan sub-amount were not fully repaid at the end of 30 years, the fee would continue in the fishery for as many additional years as were required to fully repay that reduction loan sub-amount.

Q. Penalties for Prohibited Activities

There would be substantial penalties for (among other things):

1. Any bidder whose bid offered a reduction component that the bidder was not legally entitled to offer in the manner that the bid invitation and this proposed rule would require. These penalties would be in addition to bid rejection, and might also apply to other actions that interfered with or hindered the bidding process;
2. Any bidder who submitted a non-performable bid offer or took any post-bid action (including, but not limited to, any post-bidding conveyance of any reduction component) that prevented or otherwise hindered the specific performance of any reduction contract;
3. Any referendum voter who submitted a false or unauthorized referendum ballot or any person who otherwise interfered with, hindered, or otherwise unduly or unlawfully influenced the referendum process; and
4. Any fish seller who failed properly to pay the fee and any fish buyer who failed properly to collect, deposit, and disburse the fee as well as to maintain the records and submit the reports that this proposed rule would require.

All persons who might be subject to any of these penalties if NMFS adopted this proposed rule should inform themselves fully about the penalties. For further details about the penalties, see this subpart's § 600.1017 and this proposed § 600.1018(u).

R. Administering Offices

The Financial Services Division in our Silver Spring, MD, central office (see **ADDRESSES**) would be responsible for implementing and administering the crab program. The Financial Services Division would:

1. Issue all notifications and mailings that the proposed rule requires;
2. Prepare and issue the invitation to bid;
3. Receive bids;
4. Reject bids;
5. Score bids;
6. Accept bids;
7. Prepare and issue referendum ballots;
8. Receive referendum ballots;
9. Tally referendum ballots;
10. Determine referendum success or failure;
11. Tender and disburse reduction payments;
12. Administer reduction contracts;
13. Administer fees and reduction loan repayment; and

14. Discharge all other crab program management and administration functions.

Upon the Financial Services Division's advice, the RAM Program in our Alaska Regional Office (see **ADDRESSES**) would, for fishing licenses under the jurisdiction of the Alaska Regional Office (and such other of our offices as may be appropriate for other fishing licenses or permits), revoke the crab and non-crab reduction permits and effect the relinquishment of the crab and non-crab reduction histories.

The Financial Services Division would advise the U.S. Coast Guard's National Vessel Documentation Center, the U.S. Maritime Administration, such other agency or agencies as may be involved, or all of them to revoke reduction vessels' fisheries trade endorsements and otherwise restrict reduction vessels in accordance with this proposed rule. Those agencies would be responsible for acting on this advice.

V. Guidance

A. Reading the Proposed Rule in Conjunction with the Framework Rule

This proposed rule would establish which framework rule provisions (this subpart's § 600.1000 through § 600.6017) would not apply to the crab program. Consequently, a comprehensive understanding requires reading the proposed rule in conjunction with the remaining framework rule provisions that would continue to apply to the crab program. NMFS recommends that all interested persons carefully read the former in close conjunction with the latter.

B. Summary of Crab Program Notices and Mailings

This table summarizes, in chronological order, key crab program actions that would involve our providing notice to affected persons:

Action	Method		
	FEDERAL REGISTER	Mailing	Website
Final rule	X		X
Bidder and voter notice	X	X	X
Invitation to bid	X	X	X
Bid rejection and acceptance		X	
Referendum ballots		X	X
Referendum results		X	X
Reduction contracts unconditional		X	
Reduction payment tender notice	X		
Reduction payment tender		X	
Fee payment and collection		X	X

This is what we would mail in each notice and to whom we would mail it:

Action	NMFS would mail:
Bidder and voter notice	A notice to each crab license holder who is prospectively a qualifying bidder, voter, or both.
Invitation to bid	An invitation to bid to each crab license holder who is on our prospectively qualifying bidder list.
Bid rejection and acceptance	Our rejection to each bidder whose bid we reject and our acceptance to each bidder whose bid we accept.
Referendum ballots	A referendum ballot and instructions to each crab license holder who is on our prospectively qualifying voter list.
Referendum results	The results of the referendum to each crab license holder.
Reduction Contracts Unconditional	Advice, to each accepted bidder, that a successful referendum has fulfilled the one condition to performance of the reduction contracts.
Reduction payment tender	After a successful referendum and a reduction payment tender notice, a tender of reduction payment to each accepted bidder.
Fee payment and collection notice	A notice to each fish seller and each fish buyer of the initial fee payment and collection requirement and each subsequent change in this requirement.

All website postings would be solely for the public's convenience and our failure or inability to post anything on a website would not affect the rights, privileges, duties, or obligations of any person involved.

Classification

The Assistant Administrator for Fisheries, National Marine Fisheries Service, determined that this proposed rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

In compliance with the National Environmental Policy Act, we prepared an environmental assessment for this proposed rule. The assessment discusses the impact of this proposed rule on the natural and human environment and integrates a Regulatory Impact Review and an Initial Regulatory Flexibility Analysis. NMFS will send the assessment, the review and analysis to anyone who requests us to do so (see **ADDRESSES**).

We determined that this proposed rule is significant for purposes of Executive Order 12866.

In compliance with the Regulatory Flexibility Act, NMFS prepared an analysis that describes the economic impact this proposed rule, if adopted, would have on small entities. In this proposed rule's preamble, we described

the proposed rule, why we are proposing it, and its legal basis. NMFS intends the analysis to aid us in considering all reasonable regulatory alternatives that could minimize the economic impact on affected small entities.

This proposed rule's effect on post-reduction crab harvesters would depend on the crab program's nature and size. Our assessment, review, and analysis considered:

1. The effect of three alternatives:

a. The status quo,

b. Uniform reduction loan repayment fees, and

c. Weighted reduction loan repayment fees; and

2. Based on five potential magnitudes of revoked crab licenses and vessels:

a. 30,

b. 45,

c. 60,

d. 75, and

e. 90.

The preferred alternative, weighted reduction loan repayment fees, provides the most equitable method for allocating reduction loan repayment, and this is the reduction loan repayment method that section 144 requires.

The proposed rule's impact would be positive for both bidders whose bid offers NMFS accepts and post-reduction harvesters whose landing fees repay the reduction loan because the bidders and harvesters would have voluntarily assumed the impact:

1. Bidders would have volunteered to make bid offers at bid amounts of their own choice. Presumably, no bidder would volunteer to make a bid offer with a bid amount that is inconsistent with the bidder's interest; and

2. Reduction loan repayment landing fees would be authorized, and we could complete the crab program, only if at least two-thirds of crab license holders voting in a post-bidding fee referendum voted in favor of the fee. Presumably, crab license holders who are not accepted bidders would not vote in favor of the fee unless they concluded that the crab program's prospective capacity reduction was sufficient to enable them to increase their post-reduction revenues enough to justify the fee.

NMFS believes that this proposed action would affect neither authorized crab harvest levels nor crab harvesting practices.

This proposed rule contains information collection requirements subject to the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) approved this information collection under OMB control number 0648–0376. NMFS estimates that the public reporting burden for this information collection would average 4 hours for bidding and 4 hours for voting in a referendum. Persons affected by this proposed rule would also be subject to other collection-of-information requirements referred to in the proposed rule and also approved under OMB control number 0648–0376. These requirements and their associated response times are: completing and filing a fish ticket (10 minutes), submitting monthly fish buyer reports (2 hours), submitting annual fish buyer reports (4 hours), and fish buyer/fish seller reports when a person fails either to pay or to collect the loan repayment fee (2 hours).

This proposed rule also contains a new collection-of-information requirement that NMFS has submitted to OMB for approval (under the same OMB control number). The provision allows the public 30 days to advise us of any license or permit holder or vessel owner claims that conflict with accepted bidders' representations about holding, owning, or retaining any of the crab or non-crab reduction permits, the reduction vessels, or the crab or non-crab reduction histories. Responses are voluntary, but we estimate the public reporting burden for this collection of information would be 1 hour per response.

These response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Interested persons may send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to both NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, and no person is subject to a penalty for failure to comply with, an information collection subject to the PRA requirements unless that information collection displays a currently valid OMB control number.

In addition to public comment about the proposed rule's substance, NMFS also seeks public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

This action would not result in any adverse effects on endangered species or marine mammals.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing capacity reduction, Fishing permits, Fishing vessels, Intergovernmental relations, Loan programs—business, Reporting and recordkeeping requirements.

Dated: December 4, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons in the preamble, the National Marine Fisheries Service proposes to amend 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 is revised to read as follows:

Authority: 5 U.S.C. 561, 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 1861a(b) through (e), 46 App. U.S.C. 1279f and 1279g, section 144(d) of Division B of Pub. L. 106–554, section 2201 of Pub. L. 107–20, and section 205 of Pub. L. 107–117.

2. Section 600.1018 is added to subpart L to read as follows:

§ 600.1018 Crab species program.

(a) *Purpose.* This section's purpose is to implement the program that Section 144(d) of Division B of Pub. L. 106–554, as amended by section 2201 of Pub. L. 107–20 and section 205 of Pub. L. 107–117, enacted for crab species.

(b) *Terms.* Unless otherwise defined in this section, the terms defined in § 600.1000 expressly apply to the program for crab. Likewise, the terms defined in § 679.2 of this chapter also apply to terms not otherwise defined in either § 600.1000 or this section. The following terms used in this section have the following meanings for the purpose of this section:

Acceptance means NMFS' acceptance, on behalf of the United States, of a bid.

Bid means a bidder's irrevocable offer, in response to an invitation to bid under this section, to surrender, to have revoked, to have restricted, to relinquish, to have withdrawn, or to have extinguished by other means, in the manner that this section requires, the bidder's reduction fishing interest.

Bid amount means the dollar amount of each bidder's bid.

Bid crab means the crab that NMFS determines each bidder's reduction vessel harvested, according to the State of Alaska's records of the documented harvest of crab, from each reduction endorsement fishery and from the Norton Sound fishery during the most recent 5 calendar years in which each reduction endorsement fishery was for any length of time open for directed crab fishing during a 10–calendar-year period beginning on January 1, 1990, and ending on December 31, 1999.

Bidder means either a qualifying bidder bidding alone or a qualifying bidder and a co-bidder bidding together who at the time of bidding holds the reduction fishing interests specified at § 600.1018(e).

Bid score means the criterion by which NMFS decides in what order to accept bids in the reverse auction specified in this section.

Co-bidder means a person who is not a qualifying bidder but who at the time of bidding owns the reduction vessel, holds the non-crab reduction permit, or both owns the reduction vessel and holds the non-crab reduction permit that this section requires to be included in a bid and who is bidding together with a qualifying bidder.

Crab means the crab species covered by the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs pursuant to § 679.2 of this chapter.

Crab license means a License Limitation Program license for crab issued pursuant to § 679.4(k)(5) of this chapter.

Crab reduction permit means a non-interim crab license endorsed for one or more reduction endorsement fisheries, regardless of whether it is also endorsed for the Norton Sound fishery.

FSD means NMFS' Financial Services Division, located in NMFS' Silver Spring, MD, headquarters office.

Norton Sound fishery means the non-reduction fishery defined in § 679.2 of this chapter as the area/species endorsement for Norton Sound red king and Norton Sound blue king crab.

NVDC means the U.S. Coast Guard's National Vessel Documentation Center located in Falling Waters, WV.

Qualifying bidder means a person who at the time of bidding is the license holder of record of a crab reduction permit.

Qualifying voter means a person who at the time of voting in a referendum is the license holder of record either of an interim or a non-interim crab license, except a crab license whose sole area/species endorsement is for the Norton Sound fishery.

RAM Program means NMFS' Restricted Access Management Program located in NMFS' Juneau, AK, regional office.

Reduction fishing interest means, for each bid, the bidder's:

(1) Reduction vessel fishing privilege;

(2) Crab reduction permit;

(3) Non-crab reduction permit;

(4) Reduction vessel fishing history; and

(5) Any other claim that could in any way qualify the owner, holder, or retainer of any of the reduction components, or any person claiming under such owner, holder, or retainer, for any present or future limited access system fishing license or permit in any United States fishery (including, but not limited to, any harvesting privilege or quota allocation under any present or future individual fishing quota system).

Reduction endorsement fishery means any of the seven fisheries that § 679.2 of this chapter defines as area/species endorsements except the area/species endorsement for the Norton Sound fishery.

Reduction fishery means the fishery for all crab covered by the Bering Sea/Aleutian Islands King and Tanner Crabs Fishery Management Plan under all area/species endorsements that section 679.2 of the chapter defines, except the area/species endorsement for the Norton Sound fishery.

Reduction loan sub-amount means the portion of the original principal amount of this program's reduction loan that each reduction endorsement fishery must repay with interest.

Reduction vessel fishing history means, for each bid, the reduction vessel's complete history of documented harvest upon any part of which NMFS based issuance of the bidder's crab reduction permit and non-crab reduction permit.

Referendum means a referendum under this section to determine whether voters approve the fee required to repay this program's reduction loan.

(c) *Relationship to this subpart*—(1) *Provisions that apply.* The provisions of § 600.1000 through § 600.1017 of this subpart apply to this program except as paragraph (c)(2) of this section provides; and

(2) Provisions that do not apply. The following sections, or portions of them, of this subpart do not apply to this program:

(i) All of:

(A) Section 600.1001,

(B) Section 600.1002,

(C) Section 600.1003,

(D) Section 600.1004,

(E) Section 600.1005,

(F) Section 600.1006, and

(G) Section 600.1007,

(ii) The portions of § 600.1008:

(A) Pertaining to an implementation plan,

(B) Pertaining to a 60–day comment period for a proposed implementation regulation,

(C) Pertaining to public hearings in each State that the this program affects,

(D) Pertaining to basing the implementation regulation on a business plan,

(E) Within paragraphs (d)(1)(ii) through (viii),

(F) Within paragraph (d)(2)(ii),

(G) Within paragraph (e), and

(H) Within paragraph (f) and pertaining to fishing capacity reduction specifications and a subsidized program,

(iii) The portions of § 600.1009:

(A) Pertaining to fishing capacity reduction specifications,

(B) Within paragraph (a)(4),

(C) Pertaining to a reduction amendment,

(D) Within paragraph (a)(5)(ii), to the extent that the paragraph is inconsistent with the requirements of this section,

(E) Within paragraph (b)(i), and

(F) Pertaining to an implementation plan,

(iv) The portions of § 600.1010:

(A) Within paragraph (b),

(B) Pertaining to fishing capacity reduction specifications,

(C) Within paragraph (d)(1), and

(D) Within paragraphs (d)(4))(iv) through (vii),

(v) The portions of § 600.1011:

(A) That comprise the last sentence of paragraph (a),

(B) Within paragraph (d), and

(C) Within paragraph (e)(2),

(vi) The portions of § 600.1012:

(A) Within paragraph (b)(3) following the word ''subpart'', and

(B) Within paragraph (b)(3), and

(vii) The last sentence of § 600.1014(f).

(d) *Reduction cost financing.* NMFS will use the proceeds of a reduction loan, authorized for this purpose, to finance 100 percent of the reduction cost. The original principal amount of the reduction loan will be the total of all reduction payments that NMFS makes under reduction contracts. This amount shall not exceed $100 million.

(e) *Who constitutes a bidder.* A person or persons who hold all of the following three reduction components constitutes a bidder:

(1) License or permit holder of record and person otherwise fully and legally entitled to offer, in the manner that this section requires, the bid's crab reduction permit and the bid's non-crab reduction permit;

(2) Reduction vessel owner, title holder of record, and person otherwise fully and legally entitled to offer, in the manner that this section requires, the bid's reduction vessel fishing privilege; and

(3) Retainer and person otherwise fully and legally entitled to offer, in the manner that this section requires, the bid's reduction vessel fishing history.

(f) *How crab licenses determine qualifying bidders and qualifying voters*—(1) *Non-interim crab licenses.* Each person who is the record holder of

a non-interim crab license endorsed for one or more reduction endorsement fisheries is both a qualifying bidder and a qualifying voter and can both bid and vote;

(2) *Interim crab licenses.* Each person who is the record holder of an interim crab license endorsed for one or more reduction endorsement fisheries is a qualifying voter but not a qualifying bidder and can vote but not bid;

(3) *Crab licenses endorsed solely for the Norton Sound Fishery.* Each person who is the record holder of any crab license endorsed solely for the Norton Sound fishery is neither a qualifying bidder nor a qualifying voter and can neither bid nor vote; and

(4) *Time at which qualifying bidders and voters must hold required crab licenses.* A qualifying bidder must be the record holder of the required crab license at the time the qualifying bidder submits its bid. A qualifying voter must be the record holder of the required crab license at the time the qualifying voter submits its referendum ballot.

(g) *Qualifying bidders and co-bidders*—(1) *Qualifying bidders bidding alone.* There is no co-bidder when a qualifying bidder owns, holds, or retains all the required components of the reduction fishing interest;

(2) *Qualifying bidders bidding together with co-bidders.* When a qualifying bidder does not own the reduction vessel or does not hold the non-crab reduction permit, the person who does own the reduction vessel or does hold the non-crab reduction permit may be the qualifying bidder's co-bidder; and

(3) *Minimum reduction components that qualifying bidders must hold or retain when bidding with co-bidders.* At a minimum, a qualifying bidder must hold the crab reduction permit and retain the reduction vessel fishing history. The reduction vessel may be owned and the non-crab reduction permit may be held, however, by another person who is a co-bidder.

(h) *Reduction fishing interest*—(1) *General requirements.* Each bidder must:

(i) In its bid, offer to surrender, to have revoked, to have restricted, to relinquish, to have withdrawn, or to have extinguished by other means, in the manner that this section requires, the reduction fishing interest,

(ii) At the time of bidding, hold, own, or retain the reduction fishing interest and be fully and legally entitled to offer, in the manner that this section requires, the reduction fishing interest, and

(iii) Continuously thereafter hold, own, or retain the reduction fishing interest and remain fully and legally entitled to offer, in the manner that this section requires, the reduction fishing interest until:

(A) The bid expires without NMFS first having accepted the bid,

(B) NMFS notifies the bidder that NMFS rejects the bid,

(C) NMFS notifies the bidder that a reduction contract between the bidder and the United States no longer exists, or

(D) NMFS tenders reduction payment to the bidder;

(2) *Reduction vessel requirements.* Except as otherwise provided in paragraph (h) of this section, the reduction vessel in each bid must:

(i) Be the same vessel upon whose documented harvest of crab during the GQP, EQP, and RPP NMFS issued the crab reduction permit that the bidder includes in its bid, and

(ii) Be neither lost nor destroyed at the time of bidding;

(3) *Reduction vessel fishing privilege requirements.* The reduction vessel fishing privilege in each bid must be the reduction vessel's:

(i) Fisheries trade endorsement under the Merchant Marine Act, 1936 (46 U.S.C.A. 12108),

(ii) Qualification for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement under foreign registry or operation under the authority of a foreign country, and

(iii) Any other privilege to fish anywhere in the world;

(4) *Crab reduction permit requirements.* (i) Except as otherwise provided in paragraph (h) of this section, the crab reduction permit must in each bid:

(A) Be the crab license that NMFS issued on the basis of the documented harvest of crab during the GQP, EQP, and RPP of the same reduction vessel that the bidder includes in its bid,

(B) Be non-interim at the time each bidder submits its bid, and

(C) Include an area/species endorsement for any one or more reduction endorsement fisheries,

(ii) Although the Norton Sound fishery is not a reduction endorsement fishery, an area/species endorsement for the Norton Sound fishery occurring on a crab reduction permit must be surrendered and revoked (and all fishing history involving it relinquished) in the same manner as all other reduction endorsement fisheries occurring on the crab reduction permit; and

(5) *Non-crab reduction permit requirements.* The non-crab reduction permit must in each bid be every license, permit, or other harvesting privilege that:

(i) NMFS issued on the basis of the reduction vessel fishing history of the same reduction vessel that the bidder includes in its bid, and

(ii) For which the bidder was the license holder of record on the effective date of this section; and

(6) *Reduction vessel fishing history requirements.* Except as otherwise provided in paragraph (h) of this section, the reduction vessel fishing history in each bid must be the whole of the reduction vessel fishing history upon any part of which NMFS based issuance of the crab reduction permit and the non-crab reduction permit that the bidder includes in its bid.

(i) *Exceptions to the reduction fishing interest requirements*—(1) *Lost or destroyed vessel salvaged.* When a bidder has salvaged a lost or destroyed vessel and has made from the salvaged vessel the documented harvest of crab that § 679.4(k)(5)(iii)(B)(*3*) of this chapter requires:

(i) The reduction vessel is the salvaged vessel, and

(ii) The crab portion of the reduction vessel fishing history is the salvaged vessel's documented harvest of crab; and

(2) *Lost or destroyed vessel not salvaged.* When a bidder has not salvaged the lost or destroyed vessel but has made from an alternative vessel the documented harvest of crab that § 679.4(k)(5)(iii)(B)(3) of this chapter requires:

(i) The reduction vessel is the alternative vessel,

(ii) The crab portion of the reduction vessel fishing history is the total of the lost or destroyed vessel's documented harvest of crab through the date of such vessel's loss or destruction plus the alternative vessel's documented harvest of crab after such date, and

(iii) For the purposes of this program, the lost or destroyed vessel's documented harvest of crab merges with, and becomes a part of, the alternative vessel's documented harvest of crab; and

(3) *Acquired crab fishing history.* When a bidder, in the manner that § 679.4(k)(5)(iv) of this chapter requires, has made a documented harvest of crab from one vessel and has acquired another vessel's documented harvest of crab:

(i) The reduction vessel is the vessel from which the bidder made the documented harvest of crab that § 679.4(k)(5)(iv) of this chapter requires,

(ii) The crab portion of the reduction vessel fishing history is the total of the acquired documented harvest of crab

through December 31, 1994, plus the documented harvest of crab after December 31, 1994, of the vessel from which the bidder made the documented crab harvest that § 679.4(k)(5)(iv) of this chapter requires, and

(iii) For the purposes of this program, the acquired documented harvest of crab merges with, and becomes a part of, the non-acquired documented harvest of crab.

(j) *Determining value of reduction vessels' bid crab*—(1) *In each fishery.* NMFS will determine the dollar value of each reduction vessel's bid crab in each reduction endorsement fishery and in the Norton Sound Fishery by multiplying each reduction vessel's number of pounds of each species of bid crab by the average ex-vessel price per pound that the State of Alaska annually publishes for each crab species in the bid crab; and

(2) *In all fisheries.* NMFS will determine the dollar value of each reduction vessel's bid crab in all reduction endorsement fisheries and in the Norton Sound fishery by adding each of the products of the multiplications in paragraph (i)(1) of this section; and

(3) *Crab excluded from bid crab.* A reduction vessel's bid crab may not include, to the extent that NMFS has knowledge:

(i) Triangle tanner crab, grooved tanner crab, and any other crab not involved in the various area/species endorsements,

(ii) Discarded crab,

(iii) Crab caught for personal use,

(iv) Unspecified crab, and

(v) Any other crab whose dollar value NMFS cannot, for whatever reason, determine.

(k) *Determining bid score.* NMFS will determine each bid score by dividing each bid amount by the sum in paragraph (i)(2) of this section.

(l) *Determining reduction loan sub-amount*—(1) *Value of all bid crab in each fishery.* NMFS will add the dollar value of bid crab of all accepted bidders' reduction vessels in each reduction endorsement fishery;

(2) *Value of all bid crab in all fisheries.* NMFS will add the dollar value of bid crab of all accepted bidders' reduction vessels in all reduction endorsement fisheries plus the Norton Sound fishery;

(3) *Each fishery as a percentage of all fisheries.* NMFS will divide each of the sums in paragraph (k)(1) of this section by the sum in paragraph (k)(2) of this section. The result of this calculation will be the dollar value of all bid crab in each reduction endorsement fishery as a percentage of the dollar value of all bid crab in all reduction endorsement fisheries plus the Norton Sound fishery;

(4) *Applying percentages to loan amount.* NMFS will multiply the reduction loan's full original principal amount by each of the yields in paragraph (k)(3) of this section; and

(5) *Loan sub-amount.* Each of the amounts resulting from the calculation in paragraph (k)(4) of this section will be the reduction loan subamount that a reduction endorsement fishery must repay.

(m) *Prospectively qualifying bidder and voter notification*—(1)*General.* At the appropriate point before issuing an invitation to bid, NMFS will publish a notification in the **Federal Register** listing all persons who at the time of publishing the notification prospectively are qualifying bidders and qualifying voters;

(2) *Qualifying bidder list.* The prospectively qualifying bidder list will include the names and addresses of record of each license holder of record for all non-interim crab licenses except only crab licenses whose sole area/species endorsement is for the Norton Sound fishery;

(3) *Qualifying voter list.* The prospectively qualifying voter list will include the names and addresses of record of each license holder of record for all non-interim and interim crab licenses except only crab licenses whose sole area/species endorsement is for the Norton Sound fishery;

(4) *Basis of lists.* NMFS will base both the lists on the RAM Program's license holder records for crab licenses meeting the requirements of § 679.4(k)(5) of this chapter as well as the requirements of this section;

(5) *Purpose.* The purpose of the notification is to provide the public notice of:

(i) The prospectively qualifying bidders from whom NMFS, by mailing to them the invitation to bid, will invite bids if the bidders otherwise meet this section's requirements, and

(ii) The prospectively qualifying voters to whom NMFS will mail referendum ballots if the voters otherwise meet this section's requirements; and

(6) *Public comment.* Any person who wants to comment about the notification has 30 days from the notification's publication date to do so. Persons should send their comments to both FSD and the RAM Program (at addresses that the notification will specify). Comments may address:

(i) Persons who appear on one or more lists but should not,

(ii) Persons who do not appear on one or more lists but should, and

(iii) Persons who believe their names and/or business mailing addresses appearing on one or more lists are incorrect.

(n) *Invitation to bid*—(1) *Notification.* At the appropriate point after issuing the notification in paragraph (l) of this section, NMFS will publish the invitation to bid in the **Federal Register** notification further specified in § 600.1009(c) of this subpart. No person may, however, bid at this stage;

(2) Notification contents. The invitation to bid notification will state all applicable bid submission requirements and procedures (including, but not limited to, those included in this section). In particular, the invitation to bid notification will, among other things:

(i) State the date on which NMFS will invite bids by mailing an invitation to bid to each person on the prospectively qualifying bidder list,

(ii) State a bid opening date, before which a bidder may not bid, and a bid closing date, after which a bidder may not bid,

(iii) State a bid expiration date after which each bidder's bid expires unless NMFS, before that date, accepts the bid by mailing a written acceptance notice to the bidder at the bidder's address of record,

(iv) State the manner of bid submission and the information each bidder must submit for NMFS to deem a bid responsive,

(v) State any other information required for bid submission, and

(vi) Include a facsimile of the invitation to bid, containing the entire terms and conditions of the reduction contract under which each bidder who bids must bid and under which NMFS must accept each bid that NMFS accepts; and

(3) *Mailing.* On the date specified in this notification, NMFS will invite bids by mailing the invitation to bid and a bidding package, including a bidding form and full bidding instructions, to each person then on the prospectively qualifying bidder list. NMFS will not mail the invitation to bid to any potential co-bidder because NMFS will not then know which bids may include a co-bidder. Each qualifying bidder is solely responsible to have any required co-bidder properly complete the bid. No person may bid before receiving the invitation to bid and the bidding package that NMFS mailed to that person.

(o) *Bids*—(1) *Content.* Each invitation to bid that NMFS mails to a qualifying bidder will have a bid form that requires each bid to:

(i) Identify, by name, regular mail address, telephone number, and (if available) electronic mail address, the qualifying bidder and each co-bidder,

(ii) State the bid amount in U.S. dollars,

(iii) Identify, by crab license number, the qualifying bidder's crab reduction permit and include an exact copy of this crab license (which the RAM Program issued),

(iv) Identify, by vessel name and official number, the bidder's reduction vessel, and include an exact copy of this vessel's official document (which NVDC issued),

(v) Identify, by license or permit number, each of the bidder's non-crab reduction permits; and include an exact copy of each of these licenses or permits (which the RAM Program issued for licenses or permits involving species under the jurisdiction of NMFS' Alaska Region and which other NMFS offices issued for licenses or permits involving species under those offices' jurisdiction),

(vi) Identify, separately for crab and for each other species:

(A) The qualifying bidder's reduction vessel fishing history,

(B) The dates that each portion of this reduction vessel fishing history encompasses, and

(C) If the qualifying bidder acquired any reduction vessel fishing history from another person, the name of the person from which the qualifying bidder acquired this reduction vessel fishing history and the date on which the qualifying bidder did so,

(vii) State, declare, and affirm that the qualifying bidder holds the crab reduction permit and retains the complete reduction vessel fishing history, and is fully and legally entitled to offer both in the manner that this section requires,

(viii) State, declare, and affirm that either the qualifying bidder or the co-bidder owns the reduction vessel and holds the non-crab reduction permit and is fully and legally entitled to offer both in the manner that this section requires, and

(ix) Provide any other information or materials that NMFS believes is necessary and appropriate; and

(2) *Rejection.* NMFS, regardless of bid scores, will reject any bid that NMFS believes is unresponsive to the invitation to bid. All bid rejections will constitute final agency action as of the date of rejection. Before rejection, NMFS may, however, contact any bidder to attempt to correct a bid deficiency if NMFS, in its discretion, believes the attempt warranted.

(p) *Acceptance*—(1) *Reverse auction.* NMFS will determine which responsive bids NMFS accepts by using a reverse auction in which NMFS first accepts the responsive bid with the lowest bid score and successively accepts each additional responsive bid with the next lowest bid score until either there are no more responsive bids to accept or acceptance of the last responsive bid with the next lowest bid score would cause the reduction cost to exceed $100 million. If two or more responsive bid scores are exactly the same, NMFS will first accept the bid that NMFS first received;

(2) *Notification.* NMFS will, in the manner that § 600.1009(e)(3) of this subpart requires, notify bidders whose bids NMFS accepted; and

(3) *Post-acceptance reduction permit transfer.* After NMFS has accepted bids, neither the RAM Program (nor any other NMFS office) will transfer to other persons any reduction permits that accepted bidders included in the accepted bids unless and until FSD advises the RAM Program (or some other NMFS office) that the resulting reduction contracts are no longer in effect because a referendum failed to approve the fee that this section requires to repay this program's reduction loan.

(q) *Reduction contracts subject to successful post-bidding referendum condition.* Although this program involves no fishing capacity reduction specifications under this subpart, each bid, each acceptance, and each reduction contract is nevertheless subject to the successful post-bidding referendum condition that § 600.1009(a)(3) of this subpart specifies for bidding results that do not conform to the fishing capacity reduction specifications.

(r) *Post-bidding referendum*—(1) *Purpose.* NMFS will conduct a post-bidding referendum whose sole purpose is to determine whether, based on the bidding results, qualifying voters who cast referendum ballots in the manner that this section requires authorize the fee required to repay this program's reduction loan;

(2) *Manner of conducting.* NMFS will mail a referendum ballot to each person then on the prospectively qualifying voter list for each crab license that the person holds and otherwise conduct the referendum as specified in § 600.1010 of this subpart;

(3) *One vote per crab license.* Each qualifying voter may cast only one vote for each crab license that each qualifying voter holds;

(4) *Crab License Numbers on Ballots.* Each referendum ballot that NMFS mails will contain the license number of the prospectively qualifying voter's crab license to which the ballot relates;

(5) *Potential reduction results stated.* Each referendum ballot that NMFS mails will state the aggregate potential reduction results of all the bids that NMFS accepted, including:

(i) The amount of reduction that all accepted bids potentially effect, including:

(A) The number of crab reduction permits, together with each area/species endorsement for which each of these licenses is endorsed,

(B) The number of reduction vessels, and

(C) The aggregate and average dollar value of bid crab (together with the number of pounds of bid crab upon which NMFS based the dollar value), in each reduction endorsement fishery and in the reduction fishery, for all reduction vessels during the period for which NMFS calculates the dollar value of bid crab,

(ii) The reduction loan sub-amount that each reduction endorsement fishery must repay if a referendum approves the fee, and

(iii) Whatever other useful information (if any) NMFS may then have about the potential sub-fee rate initially necessary in each reduction endorsement fishery to repay each reduction loan sub-amount; and

(6) *Notice that condition fulfilled.* If the referendum is successful, NMFS will notify accepted bidders, in the manner that § 600.1010(d)(6)(iii) of this subpart specifies, that a successful referendum has fulfilled the reduction contracts' successful post-bidding referendum condition specified in paragraph (p) of this section.

(s) *Reduction method.* In return for each reduction payment, NMFS will permanently:

(1) Revoke each crab reduction permit;

(2) Revoke each non-crab reduction permit;

(3) Revoke each reduction vessel fishing privilege (which revocation will run with the reduction vessel's title in the manner that § 600.1009(a)(5)(ii)(A) of this subpart requires and in accordance with 46 U.S.C. 12108(d));

(4) Effect relinquishment of each reduction vessel fishing history for the purposes specified in this section by noting in the RAM Program records (or such other records as may be appropriate for reduction permits issued elsewhere) that the reduction vessel fishing history has been relinquished under this section and will never again be available to anyone for any fisheries purpose; and

(5) Otherwise restrict in accordance with this subpart each reduction vessel and fully effect the surrender, revocation, restriction, relinquishment, withdrawal, or extinguishment by other means of all components of each reduction fishing interest.

(t) *Reduction payment tender and disbursement*—(1) *Fishing continues until tender.* Each accepted bidder may continue fishing as it otherwise would have absent the program until NMFS, after a successful referendum, tenders reduction payment to the accepted bidder;

(2) *Notification to the public.* Immediately after a successful referendum and before tendering reduction payment, NMFS will publish a notification in the **Federal Register** listing all proposed reduction payments and putting the public on notice:

(i) Of the crab reduction permits, the reduction vessels, the reduction vessel fishing histories, and the non-crab reduction permits upon whose holding, owning, retaining, or other legal authority representations accepted bidders based their bids and NMFS based its acceptances, and

(ii) That NMFS intends, in accordance with the reduction contracts, to tender reduction payments in return for the actions specified in paragraph (r) of this section;

(3) *Public response.* The public has 30 days after the date on which NMFS publishes the reduction payment tender notification to advise NMFS in writing of any holding, owning, or retaining claims that conflict with the representations upon which the accepted bidders based their bids and on which NMFS based its acceptances;

(4) *Tender and disbursement parties.* NMFS will tender reduction payments only to accepted bidders. Unless accepted bidders responding to NMFS' reduction payment tenders provide NMFS with explicit written payment instructions and authorizations to the contrary, NMFS will also disburse reduction payments only to accepted bidders (including, in the instance of co-bidders, joint disbursement to qualifying bidders and their co-bidders). Creditors or other parties with secured or other interests in reduction vessels or reduction permits are responsible to make their own arrangements with accepted bidders;

(5) *Time of tender.* At the end of the reduction payment tender notification period, NMFS will tender reduction payments to accepted bidders, unless NMFS then knows of a material dispute about an accepted bidder's authority to enter into the reduction contract with respect to any one or more components of the reduction fishing interest that warrants, in NMFS' discretion, an alternative course of action;

(6) *Method of tender and disbursement.* NMFS will tender reduction payment by requesting from each accepted bidder specific, written instructions for paying the reduction payments. Upon receipt of these payment instructions, NMFS will immediately disburse reduction payments in accordance with the payment instructions; and

(7) *Effect of tender.* Concurrently with NMFS' tender of reduction payment to each accepted bidder:

(i) All fishing activity for any species anywhere in the world in any way associated with each accepted bidder's reduction fishing interest must forever cease--with the sole exception that each reduction vessel may continue fishing in any reduction endorsement fishery, for which the accepted bidder's crab reduction permit is endorsed, that is still open for directed crab fishing at the time of reduction payment tender until such fishery thereafter first closes,

(ii) Each accepted bidder must retrieve all fixed fishing gear for whose deployment the accepted bidder's reduction vessel was responsible, and

(iii) NMFS will fully exercise its reduction contract rights with respect to the reduction fishing interest by taking the actions specified in paragraph (r) of this section.

(u) *Fee payment and collection*—(1) *Fish sellers who pay the fee.* Any person who harvests any crab, but whom ADF&G's fisheries reporting requirements do not require to record and submit an ADF&G fish ticket for that crab, is a fish seller for the purpose of paying any fee on that crab and otherwise complying with the requirements of § 600.1013 of this subpart;

(2) *Fish buyers who collect the fee.* Any person whom ADF&G's fisheries reporting requirements require to record and submit an ADF&G fish ticket for any crab that another person harvested is a fish buyer for the purpose of collecting the fee on that crab and otherwise complying with the requirements of § 600.1013 of this subpart; and

(3) *Persons who are both fish sellers and fish buyers and both pay and collect the fee.* Any person who harvests any crab, and whom ADF&G's fisheries reporting requirements require to record and submit an ADF&G fish ticket for that crab, is both a fish seller and a fish buyer for the purpose of paying and collecting the fee on that crab and otherwise complying with the requirements of § 600.1013 of this subpart.

(v) *Fishing prohibition and penalties*—(1) *General.* Fishing, for the purpose of this section, includes the full range of activities defined in the term ''fishing'' in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801),

(2) *Prohibitions.* Concurrently with NMFS' tender of each reduction payment, and with the sole exception in paragraph (s)(7)(i) of this section, no person whatsoever may, and it is unlawful for any person to:

(i) Fish with or attempt to fish with, or allow others to fish with or attempt to fish with, the reduction vessel anywhere in the world for any species under any conditions and regardless of the reduction vessel's ownership or registry for so long as the reduction vessel exists. This prohibition includes, but is not limited to, fishing on the high seas or in the jurisdiction of any foreign country while operating under U.S. flag,

(ii) Place or attempt to place, or allow others to place or attempt to place, the reduction vessel under foreign flag or registry,

(iii) Operate or attempt to operate, or allow others to operate or attempt to operate, the reduction vessel under the authority of a foreign country,

(iv) Otherwise avoid or attempt to avoid, or allow others to avoid or attempt to avoid, the revocation of the reduction vessel fishing privilege with respect to any reduction vessel, and

(v) Make any claim or attempt to make any claim, or allow others to claim or attempt to make any claim, for any present or future limited access fishing license or permit in any U.S. fishery (including, but not limited to, any quota allocation under any present or future individual quota allocation system) based in any way on any portion of a reduction fishing interest surrendered, revoked, restricted, relinquished, withdrawn, or extinguished by other means under this section; and

(3) *Penalties.* The activities that this paragraph prohibits are subject to the full penalties provided in § 600.1017 of this subpart, and immediate cause for NMFS to take action to, among other things:

(i) At the reduction vessel owner's expense, seize and scrap the reduction vessel, and

(ii) Pursue such other remedies and enforce such other penalties as may be applicable.

(w) *Program administration*—(1) *FSD responsibilities.* FSD is responsible for implementing and administering this program. FSD will:

(i) Issue all notifications and mailings that this section requires,

(ii) Prepare and issue the invitation to bid,
(iii) Receive bids,
(iv) Reject bids,
(v) Score bids,
(vi) Make acceptances,
(vii) Prepare and issue referendum ballots,
(viii) Receive referendum ballots,
(ix) Tally referendum ballots,
(x) Determine referendum success or failure,
(xi) Tender and disburse reduction payments,
(xii) Administer reduction contracts,
(xiii) Administer fees and reduction loan repayment, and
(xiv) Discharge all other management and administration functions that this section requires;

(2) *RAM Program responsibilities.* Upon FSD's advice, the RAM Program (for fishing licenses under the jurisdiction of NMFS's Alaska Region) and any other appropriate NMFS authority (for fishing licenses under the jurisdiction of any other NMFS office) will revoke reduction permits and effect the surrender of fishing histories in accordance with this section; and

(3) *NVDC and U.S. Maritime Administration responsibilities.* FSD will advise NVDC, the U.S. Maritime Administration, such other agency or agencies as may be involved, or all of them to revoke reduction vessels' fisheries trade endorsements and otherwise restrict reduction vessels in accordance with this section.

(x) *Reduction loan and reduction loan sub-amounts.* [Reserved]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021122286–2286–01; I.D. 110602B]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Proposed 2003 Harvest Specifications for Groundfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed 2003 initial harvest specifications for groundfish and associated management measures; request for comments.

SUMMARY: NMFS proposes 2003 initial harvest specifications for groundfish, reserves and apportionment thereof, Pacific halibut prohibited species catch (PSC) limits, and associated management measures for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits and associated management measures for groundfish during the 2003 fishing year. The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and to provide an opportunity for public participation in the annual specification process.

DATES: Comments must be received by January 13, 2003.

ADDRESSES: Comments must be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments also may be sent via facsimile (fax) to 907–586–7557. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the final 2001 Stock Assessment and Fishery Evaluation (SAFE) reports, dated November 2001, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510 or from its homepage at *http://www.fakr.noaa.gov/npfmc*. Copies of the draft Environmental Assessment/Initial Regulatory Flexibility Analysis (EA/IRFA) prepared for this action are available from NMFS (see **ADDRESSES**) and comments must be received by December 20, 2002.

FOR FURTHER INFORMATION CONTACT: Tom Pearson, Sustainable Fisheries Division, Alaska Region, 907–481–1780 or e-mail at tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan (FMP) for the Groundfish Fishery of the GOA. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and for the ''other species'' category, the sum of which must be within the optimum yield (OY) range of 116,000 to 800,000 metric tons (mt) (§ 679.20(a)(1)(ii). Regulations at § 679.20(c)(1) further require NMFS to publish annually, and solicit public comment on, proposed annual TACs, halibut PSC amounts, seasonal allowances of pollock, and inshore/offshore Pacific cod. The proposed specifications set forth in Tables 1 to 9 of this document satisfy these requirements. For 2003, the sum of the proposed TAC amounts is 233,166 mt. Under § 679.20(c)(3), NMFS will publish the final specifications for 2003 after (1) considering comments received within the comment period (see DATES), (2) consulting with the Council at its December 2002 meeting, and (3) considering new information presented in the EA, the final 2002 SAFE reports, and in the section 7 consultation prepared for the 2003 groundfish fisheries.

Regulations that will be effective with the final rule to implement major provisions of the American Fisheries Act (AFA) at § 679.20(c)(2)(i) provide that one-fourth of each proposed TAC and apportionment thereof (not including the reserves and the first seasonal allowances of pollock and Pacific cod), one-fourth of the proposed halibut PSC amounts, and the proposed first seasonal allowances of pollock and Pacific cod will become effective 0001 hours, Alaska local time (A.l.t.) January 1, 2003, on an interim basis and remain in effect until superseded by the final harvest specifications, which will be published in the **Federal Register**. Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, which would result in unnecessary closures and disruption within the fishery industry.

By separate rulemaking, NMFS intends to publish in the **Federal Register** prior to January 1, 2003, the interim TAC specifications and apportionments thereof for the 2003 fishing year. These interim specifications would become effective 0001 hours, A.l.t., January 1, 2003, and would remain in effect until superseded by the final 2003 harvest specifications.

NMFS also intends to publish a final rule implementing regulatory provisions of the AFA in the **Federal Register** that would be effective for 2003. In order to minimize confusion, the proposed specifications also identify sideboard amounts for the AFA fisheries that will be available under the final rule. Also, NMFS has initiated rulemaking to permanently implement the Steller sea