

plan back on course for stock recovery within the original 10-year time frame. To achieve this goal, TAC must be reduced by 32 percent to rebuild the stock by 2012.

For greater amberjack, Amendment 30A considers actions to constrain harvest to a TAC of 1.9 million lb (863,636 kg). Measures to constrain recreational harvest include a quota (which would also function as an ACL) of 1,368,000 lb (620,514 kg), increasing the minimum size limit to 30 inches (76 cm) fork length (FL), and prohibiting the bag limit for captain and crew of for-hire vessels. These measures are expected to reduce recreational landings by 26 percent. For the commercial fishery, Amendment 30A would establish a commercial quota (which would function as an ACL) of 503,000 lb (228,157 kg), thus reducing the commercial harvest by 38 percent.

The amendment proposes an allocation for greater amberjack of 73 percent for the recreational sector and 27 percent for the commercial sector. These allocations were derived from long-term average landings from 1981–2004.

To ensure the greater amberjack stock recovers, AMs are proposed. These AMs are intended to ensure landings do not exceed the TAC allowed by the rebuilding plan. The amendment authorizes the Assistant Administrator for Fisheries, NOAA, (AA) to shorten fishing seasons by sector within the current fishing year, or in the subsequent year, if landings are exceeded or are projected to be exceeded.

NMFS has determined gray triggerfish are undergoing overfishing based on the 2006 stock assessment. Based on status determination criteria proposed by the Council in Amendment 30A, the gray triggerfish stock would be considered overfished. Amendment 30A is necessary to establish management measures to end overfishing of gray triggerfish and would establish a rebuilding plan.

The proposed gray triggerfish rebuilding plan in Amendment 30A uses a constant fishing mortality strategy that optimizes yield while allowing the stock to rebuild by the end of 2012. Under the proposed rebuilding plan, TAC would be set at 500,000 lb (226,796 kg). In lieu of a recreational quota, Amendment 30A proposes to establish ACLs for the recreational sector of 394,000 lb (178,715 kg) for 2008, 426,000 lb (193,230 kg) for 2009, and 457,000 lb (207,291 kg) for 2010 and subsequent fishing years, until revised based on a subsequent stock assessment and appropriate rulemaking.

Increasing the recreational minimum size limit for gray triggerfish to 14 inches (36 cm) FL is intended to constrain harvest to a level less than the ACL. This action is expected to reduce recreational landings by 60 percent, and achieve a 45 percent reduction in recreational harvest, necessary to rebuild the gray triggerfish stock. For the commercial fishery, actions in Amendment 30A would increase the commercial size limit to 14 inches (36 cm) FL and establish a commercial quota, which is less than the proposed commercial ACL. For 2008, the quota would be 80,000 lb (36,287 kg), 93,000 lb (42,184 kg) for 2009, and 106,000 lb (48,081 kg) for 2010. The commercial quota would remain at the 2010 level until revised based on a subsequent stock assessment and appropriate rulemaking. These measures are expected to reduce the commercial harvest by 61 percent in 2008, and improve the probability of achieving the 49 percent reduction in commercial harvest necessary for the stock to rebuild.

To ensure the stock recovers, AMs are proposed in Amendment 30A which give the AA the authority to shorten recreational and commercial fishing seasons. For the recreational fishery, AMs would provide the AA authority to shorten the fishing year in the following year if multi-year running average landings exceed the recreational ACL, with the exception of 2008, the first year of the rebuilding plan. The first year would use only 2008 landings as the basis of whether the following year would need to be shortened. For the commercial fishery, the proposed AMs would give the AA the authority to shorten the fishing season within the fishing year, or in the following year, if multi-year running average landings exceed, or are projected to exceed, the commercial ACLs. The exception to this would be for 2008, the first year of the rebuilding plan, which would use only 2008 landings. For both the recreational and commercial fisheries, ACLs are based on the yield from the fishing mortality rate associated with optimum yield. These yield levels are higher than the harvest allowed under the proposed management actions.

Amendment 30A would also define status determination criteria for gray triggerfish, as required by the Magnuson-Stevens Act. Currently, only a maximum fishing mortality threshold has been defined for gray triggerfish equal to the fishing mortality rate associated with harvesting the maximum sustainable yield (F_{MSY}). Amendment 30A would define the minimum stock size threshold as (1–

M)* B_{MSY} where M is the natural mortality rate and B_{MSY} is the stock size capable of supporting maximum sustainable yield on a continuing basis. The optimum yield would be defined as the yield associated with $0.75 * F_{MSY}$.

A proposed rule that would implement measures outlined in Amendment 30A has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

Comments received by May 30, 2008, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 25, 2008.

Alan D. Risenhoover

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8–6523 Filed 3–28–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 080129098–8101–01]

RIN 0648–AW45

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations implementing Amendment 26 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). These proposed

regulations would amend the Bering Sea/Aleutian Islands Crab Rationalization Program. Amendment 26 would amend the FMP to exempt permanently quota share issued to crew members, and the annual harvest privileges derived from that quota share, from requirements for delivery to specific processors, delivery within specific geographic regions, and participation in an arbitration system to resolve price disputes. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Comments must be received no later than May 15, 2008.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-AW45, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.

- Mail: P. O. Box 21668, Juneau, AK 99802.

- Fax: (907) 586-7557.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of Amendment 26, the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) prepared for this action, and the Environmental Impact Statement (EIS) prepared for the Crab Rationalization Program may be obtained from the NMFS Alaska Region at the address above or from the Alaska Region website at <http://www.fakr.noaa.gov/sustainablefisheries.htm>.

FOR FURTHER INFORMATION CONTACT:

Glenn Merrill, 907-586-7228, glenn.merrill@noaa.gov.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the

exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act as amended by the Consolidated Appropriations Act of 2004 (Public Law 108-199, section 801). Amendments 18 and 19 to the FMP implemented the BSAI Crab Rationalization Program (Program). Regulations implementing Amendments 18 and 19 were published on March 2, 2005 (70 FR 10174) and are located at 50 CFR part 680.

Crab Rationalization Program Overview

Under the Program, NMFS issued four types of quota share (QS) to persons based on their qualifying harvest histories in the BSAI crab fisheries during a specific period of time defined under the Program. The first two types of QS were issued to holders of license limitation program (LLP) licenses endorsed for a crab fishery. Catcher/processor LLP license holders were issued catcher/processor vessel owner (CPO) QS based on the catch history of catcher processors using an LLP license, and catcher vessel LLP license holders were issued catcher vessel owner (CVO) QS based on the catch history of catcher vessels using an LLP license. Under the Program, 97 percent of the QS was initially issued as CVO and CPO QS. The remaining 3 percent of the QS was initially issued to vessel captains and crew as "C shares," based on their harvest histories as crew members onboard crab fishing vessels. Captains and crew onboard catcher/processor vessels were issued catcher/processor crew (CPC) QS; and captains and crew onboard catcher vessels were issued catcher vessel crew (CVC) QS.

Each year, the QS issued to a person yields an amount of individual fishing quota (IFQ), which is a permit that provides an exclusive harvest privilege for a specific amount of raw crab pounds, in a specific crab fishery, in a given season. The size of each annual IFQ allocation is based on the amount of QS held by a person in relation to the total QS pool in a crab fishery. As an example, a person holding QS equal to one percent of the QS pool in a crab fishery would receive IFQ to harvest 1 percent of the annual total allowable catch (TAC) in that crab fishery. NMFS can issue the resulting IFQ to the QS holder directly, or to a crab harvesting cooperative comprised of multiple QS holders. Crab harvesting cooperatives have been used extensively by QS holders to allow them to receive a larger

IFQ pool and coordinate deliveries and price negotiations among numerous vessels. Most QS holders, including CVC and CPC QS holders, have joined cooperatives in the first two years of the Program, and are likely to continue to do so because of the economic and administrative benefits of consolidating their IFQ.

The IFQ derived from CPO and CPC QS may be harvested and processed at sea and is not required to be delivered to a specific onshore processor or stationary floating crab processor, or within a specific geographic region. However, the IFQ derived from CVO QS is subject to (1) delivery requirements to a specific onshore processor or stationary floating crab processor, (2) delivery within specific geographic regions, also known as regionalization, and (3) requirements to participate in an arbitration system. The IFQ derived from CVC QS must be delivered to onshore or stationary floating crab processors, but is currently exempt from delivery requirements to specific processors, regionalization requirements, and requirements to participate in the arbitration system. However, under the existing regulations, CVC QS and the resulting IFQ will be subject to the same delivery, regionalization, and arbitration system requirements as CVO QS/IFQ after June 30, 2008.

When the Program was adopted in 2004, the Council recommended regularly scheduled reviews of the Program 18 months, three years, and five years after its implementation to assess specific issues. Beginning in February 2007, Council staff began preparation of the 18-month review. Among other issues examined during this review, Council staff provided a summary of the key issues and concerns relevant to applying delivery, regionalization, and arbitration system requirements to CVC QS/IFQ holders. Members of the public noted that applying these requirements to CVC QS/IFQ holders after June 30, 2008, would limit their ability to address logistical complications, not provide flexibility for CVC IFQ holders to deliver to alternative markets if desired, substantially increase the costs of operation, and not provide substantial additional stability to processors and communities. Based on these concerns, in April 2007, the Council tasked staff to prepare an analysis that would review the implications of permanently exempting CVC QS/IFQ from delivery, regionalization, and arbitration system requirements. The Council deliberated over the issue at subsequent meetings, and in December 2007, recommended

permanently exempting CVC QS/IPQ from all three of these Program requirements.

Effects of the Proposed Action

The following sections describe the Council's rationale for delaying the application of delivery, regionalization, and the arbitration system requirements to CVC QS/IPQ until June 30, 2008, the effect of applying those requirements to CVC QS/IPQ after June 30, 2008, and the rationale provided by the Council for recommending a permanent exemption for CVC QS/IPQ from these requirements.

Processor delivery requirements.

Existing processor delivery regulations recognize the historic participation of processors and communities dependent on crab processing in the BSAI crab fisheries by requiring that a portion of the annual TAC be delivered to specific onshore or stationary floating crab processors. A detailed description of the rationale for linking harvesters and processors in this manner is described in detail in the EIS prepared for the Program and the RIR/IRFA prepared for this proposed action (see **ADDRESSES**).

After considering a range of alternatives, the Council recommended and NMFS implemented regulations that require 90 percent of the IFQ derived from CVO and CVC QS be delivered to onshore processors. This requirement ensures a linkage between harvesters who historically delivered onshore and specific processors. The Program established this linkage by issuing processor quota shares (PQS) to processors with historic participation in crab processing during a specific period. PQS yields individual processor quota (IPQ) on an annual basis that represents a privilege to receive a certain amount of crab harvested. Currently, 90 percent of the IFQ derived from CVO QS holders is issued as Class A IFQ. NMFS issues one pound of IPQ for each pound of Class A IFQ, creating a one-to-one correspondence between Class A IFQ and IPQ. The remaining 10 percent of the annual CVO IFQ are issued as Class B IFQ, which may be delivered to any processor and are not required to be delivered to a processor with unused IPQ.

The Council also recommended that because CVC QS was generated based on deliveries to onshore or stationary floating crab processors, it also should be issued as 90 percent Class A IFQ and 10 percent Class B IFQ. In addition to the Class A and B IFQ issuance requirements for CVC IFQ, the Council recommended and the Program implements limits on the ability of CVC QS holders to transfer, or lease, their

CVC IFQ to other persons. This limitation was intended to ensure that CVC QS holders who received their QS by participating as captains and crew on crab vessels continued to be active participants onboard vessels in order to receive the benefits of their CVC IFQ. The Council recognized that logistical complications and confusion likely would arise early in the Program as a result of the interaction of the requirement that limits the ability to lease CVC IFQ and the requirement that 90 percent of that CVC IFQ would be issued as Class A IFQ and would be subject to processor delivery. The Council recognized that these complications could be exacerbated with the anticipated fleet contraction occurring under the Program.

To facilitate CVC QS/IPQ holders and reduce the complex process of matching of Class A IFQ to specific processors with IPQ, the Program exempted CVC IFQ from issuance as Class A/B IFQ and the prohibitions on CVC IFQ leasing for the first three crab fishing years. The Council indicated that this three year period, which expires on June 30, 2008 (see 50 CFR 680.41(e) and 50 CFR 680.42(b)(6) and (c)(5)) should provide CVC QS/IPQ holders time to adapt to the Program before phasing in these additional restrictions. Further, the Council recommended that the appropriateness of applying Class A and B IFQ restrictions should be reviewed 18 months after the implementation of the Program. The Council anticipated that applying these restrictions to CVC QS may not be necessary to achieve the goals of providing additional stability to the processing sector and communities, and could impose additional costs and complexity on CVC QS/IPQ holders. The Council recognized that the effect on processor and community stability could be minimal given the small allocation of CVC QS (i.e., not greater than three percent of the total QS pool in any fishery) and that only 90 percent of the resulting CVC IFQ would be subject to issuance as Class A IFQ and be subject to delivery to specific processors holding IPQ.

The RIR/IRFA prepared for this proposed action by Council and NMFS staff indicates that the application of Class A IFQ delivery requirements to CVC IFQ would logistically complicate use of those shares (see **ADDRESSES**). In the first two years of the Program, many harvesters have asserted that logistical demands in the crab fisheries are greatly increased when coordinating landings of Class A IFQ under the delivery and regional landing requirements. Specifically, individual CVC IFQ holders who are not participating in a

crab harvesting cooperative would be forced to compete for delivery with holders of CVO IFQ shares to specific processors holding IPQ. CVO IFQ holders are likely to be in a much better negotiating position with respect to processors because of their relatively large share holdings (i.e., vessel owner shares are allocated 97 percent of the QS pool). Given the relatively large number of CVC IFQ holders compared to CVO IFQ holders, this would require extensive efforts and create additional complications to coordinate the time critical linkages with a processor's IPQ before fishing begins. Public testimony received during the Council's deliberations noted these concerns and asserted that the potential advantages to processors and communities by establishing these delivery requirements were outweighed by the additional costs that CVC QS/IPQ holders would incur. Public testimony from processors and communities with processing facilities did not dispute this assertion and supported permanently exempting CVC QS from the requirements that it be issued as Class A and B IFQ.

Permanently extending the exemption of the Class A/B IFQ delivery requirements to CVC QS/IPQ holders would not be anticipated to have adverse effects on other participants given the limited number of these shares relative to CVO, CPO, and CPC QS/IPQ. Adding the Class A IFQ to CVC IFQ, which is less than three percent of the total annual IFQ issued, would not have an appreciable effect on processor stability or substantially benefit specific communities with processing facilities. This is further supported by the fact that CVC QS/IPQ has been exempt from the Class A IFQ delivery requirement for the first three years of the Program and no negative effects were indicated in the RIR/IRFA. Public testimony provided during Council review of this issue did not indicate that there would be negative effects on processors or communities as a result of a permanent exemption from Class A/B designation for CVC IFQ.

Additionally, based on a review of recent harvest patterns provided in the draft RIR/IRFA, it appears as though CVC IFQ delivery patterns are similar to those of Class A IFQ. These patterns could change in the future so that CVC IFQ would be more likely to be delivered independently of Class A IFQ to other markets; however, given the relatively small percentage of the total landings that are assigned to CVC IFQ onboard a vessel, it is unlikely to expect delivery patterns for CVC IFQ to differ from the delivery patterns currently observed. Furthermore, even if the

delivery patterns of CVC IFQ did change in the future, it is not clear that a shift in such a relatively small amount of IFQ would have an appreciable effect on overall processor operations or deliveries to specific communities.

Regionalization. In addition to processor share landing requirements, Class A IFQ and IPQ are subject to regional landing requirements. Those shares must be landed and processed in specified geographic regions. Those regions are described in the EIS prepared for the Program and the RIR/IRFA prepared for this action (see **ADDRESSES**). The Class A IFQ regional delivery requirements vary depending on the specific crab fishery but generally ensure that a portion of the catch is delivered within areas that have communities that are active in crab processing. For most crab fisheries, there are two regions. One region is typically considered the more remote region. The requirement to land within the more remote region provides some assurance that the small number of processors and communities historically active within that region will continue to receive catch that could otherwise be diverted to the less remote region thereby disadvantaging the more remote region relative to those other processors or communities.

If CVC IFQ were subject to a Class A/B IFQ designation, then 90 percent of the CVC IFQ would be defined as Class A IFQ and therefore subject to regionalization. Because the Program exempted CVC IFQ from a Class A/B IFQ designation through June 30, 2008, to reduce the initial complexities of matching shares and for the other reasons mentioned in the previous section, CVC IFQ also was exempted from regionalization.

If CVC QS/IFQ were subject to the Class A/B IFQ designation, the Class A CVC IFQ would be subject to regionalization, and a greater proportion of the catch would have to be landed in specific geographic regions. The amount of additional pounds that would be subject to regionalization and landed within each region would vary. The net effect of regionalizing CVC IFQ is that less than three percent of the total IFQ issued in a crab fishery would be subject to regionalization. This is because three percent of the IFQ may be issued as CVC or CPC IFQ. A portion of the three percent of the IFQ issued as CVC and CPC IFQ in a crab fishery would be comprised of CVC IFQ. The relative amount of CPC and CVC IFQ issued varies among the crab fisheries and is described in the RIR/IRFA prepared for this proposed action (see **ADDRESSES**). Only 90 percent of the IFQ issued as

CVC IFQ would be issued as Class A IFQ that is subject to regionalization.

It is difficult to predict whether applying regional delivery requirements to CVC IFQ would have an impact on existing delivery patterns within a given region for a specific crab fishery. Based on data in the RIR/IRFA from the first two years of the Program, CVC IFQ has had delivery patterns very similar to CVO Class A IFQ for a variety of reasons. These include economic inefficiencies when establishing markets for CVC IFQ separate from CVO Class A IFQ given the relatively small amounts of CVC IFQ, the need to use CVC IFQ to accommodate unique situations such as icing conditions and the loss of a floating processor during the early part of the *C. opilio* fishery in 2006, and the operational inefficiencies that can result when attempting to make deliveries of CVC IFQ distinct from CVO IFQ.

Given the high level of crab cooperative membership among all QS holders (including CVC QS holders), it is likely that most CVC QS holders will continue to cooperate with CVO QS holders and pool their IFQ in a cooperative. This coordinated management makes it likely that CVC IFQ assigned to a cooperative would be delivered in coordination with CVO Class A IFQ assigned to a cooperative. It is possible that permanently exempting CVC IFQ from regionalization could encourage cooperatives to combine their CVC IFQ with CVO Class B IFQ for delivery to markets outside of the region designated for the CVO Class A IFQ. However, it is not possible to predict whether such a shift in delivery patterns will occur. Given the fact that CVC IFQ is currently exempt from regionalization, and CVC IFQ is delivered in conjunction with CVO Class A IFQ currently, it is not clear if a continuing exemption from regionalization requirements would have any noticeable effect on the overall delivery of CVC IFQ within a given region. However, permanently exempting CVC IFQ from regionalization requirements could provide opportunities to CVC IFQ holders to use additional markets that would be foreclosed if those shares are subject to regionalization.

Arbitration System. To aid participants in resolving price and delivery disputes that may arise among Class A IFQ and IPQ holders, the Council developed an arbitration system. Regulations require that Class A IFQ and IPQ holders join private arbitration organizations. These arbitration organizations, in turn, must enter into contracts that define the procedure for resolving price disputes.

The arbitration system serves several functions to resolve price and delivery disputes including establishing a mechanism for the orderly matching of Class A IFQ with IPQ, developing a market report and non-binding price formula to inform price negotiations, and providing a binding arbitration procedure to resolve impasses in negotiations. A more complete description of the arbitration system is provided in the RIR/IRFA prepared for this action and the EIS prepared for the Program (see **ADDRESSES**).

Since the arbitration system applies only to Class A IFQ, the existing exemption of CVC IFQ from Class A/B IFQ designation effectively exempts CVC IFQ from the arbitration system. If the Class A/B IFQ designation is applied to CVC QS, then participation in the arbitration system would be mandatory for CVC QS/IFQ holders. Participation in the arbitration system costs money and can require involvement in complex negotiations should disputes need to be resolved through binding arbitration.

Arbitration organization fees are borne by its members. Currently, the arbitration organization for harvesters charges each member \$500. Whether a discounted rate would be offered to CVC QS/IFQ holders because of their relatively small share holdings is not known and would need to be determined by the arbitration organization. It is possible that costs could decline over time as the administrative aspects of the arbitration system become more established. Other general costs for the arbitration system, including hiring arbitrators and preparing the market report and non-binding price formula, are split evenly between the harvesting and the processing sectors. Based on experience from the first two years of the Program, it is likely that administrative costs of the arbitration program will remain less than one-half cent per pound of delivered product in the future.

In addition to the administrative aspects of the arbitration system, CVC QS/IFQ holders may also have costs related to their participation in a binding arbitration proceeding. These costs can be incurred either individually or through collective action with other Class A IFQ holders who are in a cooperative with the CVC QS holder. Individual participation by CVC QS holders who are not members of a cooperative would be costly and likely would be ineffective because of the administrative complexity and substantive challenges of participation in a binding arbitration. Collective participation allows the pooling of resources and information, thereby

reducing the individual burden of participation in a binding arbitration. Many fishermen believe that professional representation is necessary to guide negotiations due to the complexity of the system and the expense of gathering market information needed for effective negotiation. Harvester cooperatives have coordinated binding arbitration negotiations through an inter-cooperative agreement, the Inter-Cooperative Exchange, which has helped distribute these costs. Whether CVC QS holders would be charged for participation in the Inter-Cooperative Exchange at the same level as holders of CVO or CPO QS, or at a discounted rate, is not known, and would be at the discretion of the harvesters participating in the binding arbitration.

At a minimum, applying arbitration system requirements to CVC QS/IFQ holders would increase their costs of operation. Depending on the relative size of their quota holdings, these additional costs could represent a substantial portion of the value derived from their quota. In the extreme, these additional costs could outweigh the value derived from the quota and make it unprofitable to participate in the fishery. It is not possible to predict the number of persons who might be in such a position due to the potential variability in arbitration costs, exvessel values, and quota share holdings applicable to each person.

Summary. The Council recommended, and this proposed rule would implement, a permanent exemption to delivery, regionalization, and arbitration system requirements for CVC QS/IFQ holders. As described in greater detail in the previous section and the RIR/IRFA prepared for this action, this proposed rule would permanently extend the existing exemption to avoid the additional costs and complexity that will result to CVC QS/IFQ holders and the very limited benefits that may accrue to some processors and communities if the delivery, regionalization, and arbitration system requirements were applied to CVC QS/IFQ.

NMFS is proposing to modify the Program regulations to remove all instances that either require or refer to CVC IFQ being redesignated as Class A/B IFQ after June 30, 2008. These references occur in regulatory text at 50 CFR 680.2, 680.20, 680.21, 680.40, and 680.42.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with Amendment 26, the Magnuson-Stevens

Fishery Conservation and Management Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared that describes the impact this proposed rule would have on small entities. Copies of the RIR/IRFA prepared for this proposed rule are available from NMFS (see **ADDRESSES**). The RIR/IRFA prepared for this proposed rule incorporates by reference an extensive RIR/IRFA prepared for Amendments 18 and 19 to the FMP that detailed the impacts of the Program on small entities.

The IRFA for this proposed action describes the action; describes in detail the reasons why this action is being proposed; describes the objectives and legal basis for the proposed rule; describes and estimates the number of small entities to which the proposed rule would apply; describes any projected reporting, record keeping, or other compliance requirements of the proposed rule; identifies any overlapping, duplicative, or conflicting Federal rules; and describes any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities.

The description of the proposed action, its purpose, and its legal basis are described in the preamble and are not repeated here. All of the directly regulated entities under this proposed rule are individuals. Only individuals can hold CVC QS/IFQ, and only regulations applicable to CVC QS/IFQ would be modified by this action. The IRFA estimates that currently 219 individuals hold CVC QS/IFQ and would be directly regulated by the proposed action. The IRFA notes that estimates of the number of small CVC QS/IFQ holders under the Program are complicated by limited share holder information, but, conservatively, the IRFA estimates that all of the individuals would be considered small entities. The standard used by the U.S. Small Business Administration to define a small entity involved in fish harvesting is described in the IRFA (see **ADDRESSES**).

The proposed rule would not change or require additional existing reporting, recordkeeping, and other compliance requirements. The analysis uncovered no Federal rules that would conflict with, overlap, or be duplicated by the alternatives under consideration.

All of the directly regulated individuals would be expected to benefit from this action relative to the status quo alternative because it would relieve these individuals from requirements that would increase their costs of operation. Among the two alternatives considered, status quo and the proposed action, the proposed action would be the alternative that would minimize adverse economic impacts on the individuals that are directly regulated. Only one alternative to the status quo was deemed appropriate because the proposed action is to permanently extend the exemption from delivery, regionalization, and arbitration system requirements for CVC QS/IFQ holders. Additionally, there is no information available to indicate that exempting CVC QS/IFQ holders from delivery, regionalization, and arbitration system requirements for a longer fixed period of time (e.g., until June 30, 2011, or June 30, 2014) would have any different effects on the benefits or costs for communities, processors, or CVC QS/IFQ holders that would not occur under the status quo or the permanent exemption alternative. Because the net effect of such an alternative would not differ from the two alternatives under consideration other than to change the date when the delivery, regionalization, and arbitration system requirements would apply, such an approach was briefly considered but not analyzed as a distinct alternative. As described in the preamble to this proposed action, it is not possible to exempt CVC QS/IFQ holders from only one of the three requirements because delivery, regionalization, and arbitration system requirements are integrated and no additional alternatives were needed to analyze the proposed action that would exempt CVC QS/IFQ holders from only one or two of the requirements.

Although the alternatives under consideration in this action would have distributional and efficiency impacts for individual participants, such as reducing some operational costs for CVC QS/IFQ holders, in no case are these impacts in the aggregate expected to be substantial. Although neither of the alternatives has substantial negative impacts on small entities, preferred Alternative 2 minimizes the potential negative impacts that could arise under Alternative 1, the status quo alternative. Differences in efficiency that could arise are likely to affect most participants in a minor way having an overall insubstantial impact. As a consequence, neither alternative is expected to have any significant economic or socioeconomic impacts. Nevertheless,

Alternative 2 is preferable because it reduces costs of operations for small entities to a limited degree.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries.

Dated: March 26, 2008.

Samuel D. Rauch III

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

For the reasons set out in the preamble, 50 CFR part 680 is proposed to be amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 680 is revised to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

2. In § 680.2, the definitions of "Arbitration IFQ", and "Arbitration QS" are revised to read as follows:

§ 680.2 Definitions.

* * * * *

Arbitration IFQ means:

(1) Class A catcher vessel owner (CVO) IFQ held by a person who is not a holder of PQS or IPQ and who is not affiliated with any holder of PQS or IPQ, and

(2) IFQ held by an FCMA cooperative.

Arbitration QS means CVO QS held by a person who is not a holder of PQS or IPQ and is not affiliated with any holder of PQS or IPQ.

* * * * *

3. In § 680.20, paragraphs (a)(1), (b)(1)(i), the introductory text to paragraph (c), and paragraph (e)(7) are revised to read as follows:

§ 680.20 Arbitration System.

(a) * * *

(1) Arbitration System. All CVO QS, Arbitration IFQ, Class A IFQ holders, PQS and IPQ holders must enter the contracts as prescribed in this section that establish the Arbitration System. Certain parts of the Arbitration System are voluntary for some parties, as specified in this section. All contract provisions will be enforced by parties to those contracts.

* * * * *

(b) * * *

(1) * * *

(i) Holders of CVO QS,

* * * * *

(c) Preseason requirements for joining an Arbitration Organization. All holders of CVO QS, PQS, Arbitration IFQ, Class

A IFQ affiliated with a PQS or IPQ holder, and IPQ must join and maintain a membership in an Arbitration Organization as specified in paragraph (d) of this section. All holders of QS, PQS, IFQ, or IPQ identified in the preceding sentence must join an Arbitration Organization at the following times:

* * * * *

(e) * * *

(7) IFQ and IPQ Issuance and Selection of the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s). NMFS will not issue CVO IFQ and IPQ for a crab QS fishery until Arbitration Organizations establish by mutual agreement contracts with a Market Analyst, Formula Arbitrator, and Contract Arbitrators for that fishery and notify NMFS.

* * * * *

4. In § 680.21, paragraph (a)(1)(iii)(B) is revised to read as follows:

§ 680.21 Crab harvesting cooperatives.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

(B) Upon joining a crab harvesting cooperative for a CR fishery, NMFS will convert all of a QS holder's QS holdings for that CR fishery to crab harvesting cooperative IFQ.

* * * * *

5. In § 680.40, paragraphs (b)(1)(ii), (b)(2)(i)(B), (b)(2)(ii)(C), (c)(2)(v)(J), (c)(4) introductory text, (h)(2)(i), (h)(2)(ii), and (h)(6)(ii) are revised to read as follows:

§ 680.40 Quota Share (QS), Processor QS (PQS), Individual Fishing Quota (IFQ), and Individual Processor Quota (IPQ) issuance.

* * * * *

(b) * * *

(1) * * *

(ii) Catcher Vessel Crew (CVC) QS shall be initially issued to qualified persons defined in paragraph (b)(3) of this section based on legal landings of unprocessed crab.

* * * * *

(2) * * *

(i) * * *

(B) South QS if the legal landings that gave rise to the QS for a crab QS fishery were not landed in the North Region, and all CVO QS allocated to the WAI crab QS fishery; or

* * * * *

(ii) * * *

(C) CVC QS;

* * * * *

(c) * * *

(2) * * *

(v) * * *

(J) The percentage calculated in paragraph (c)(2)(v)(I) of this section may be adjusted according to the provisions at paragraphs (c)(3) and (c)(4) of this section. The amount calculated in paragraph (c)(2)(v)(H) of this section is multiplied by the percentage for each region. These regional QS designations do not apply to CVC QS.

* * * * *

(4) Regional designation of Western Aleutian Islands golden king crab. Fifty percent of the CVO QS that is issued in the WAG crab QS fishery will be initially issued with a West regional designation. The West regional designation applies to QS for delivery west of 174° W. longitude. The remaining 50 percent of the CVO QS initially issued for this fishery is not subject to regional designation (Undesignated QS). A person (p) who would receive QS based on the legal landings in only one region will receive QS with only that regional designation. A person who would receive QS with more than one regional designation for that crab QS fishery would have his or her QS holdings regionally adjusted on a pro rata basis as follows:

* * * * *

(h) * * *

(2) * * *

(i) QS shall yield Class A or Class B IFQ if:

(A) Initially assigned to the CVO QS sector; or

(B) Transferred to the CVO QS sector from the CPO QS sector.

(ii) The Class A/B IFQ TAC is the portion of the TAC assigned as Class A/B IFQ under paragraphs (h)(2)(i)(A) and (B) of this section.

* * * * *

(6) * * *

(ii) CVC IFQ is not subject to regional designation.

* * * * *

6. In § 680.42, paragraph (b)(6) is revised to read as follows:

§ 680.42 Limitations on use of QS, PQS, IFQ, and IPQ.

* * * * *

(b) * * *

(6) Any person harvesting crab under a Class B IFQ, CPO IFQ, CVC IFQ, or CPC IFQ permit may deliver that crab to any RCR.

* * * * *