

**§ 648.107 Conservation equivalent measures for the summer flounder fishery.**

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by Massachusetts through North Carolina for 2008 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

\* \* \* \* \*

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission, shall be subject to the following precautionary default measures: Season-July 4 through September 1; minimum size-20.0 inches (50.80 cm); and possession limit-two fish.

6. In § 648.122, paragraph (g) is revised to read as follows:

**§ 648.122 Season and area restrictions.**

\* \* \* \* \*

(g) *Time restrictions.* Vessels that are not eligible for a moratorium permit under § 648.4(a)(6), and fishermen subject to the possession limit, may not possess scup, except from January 1 through the last day of February, and from October 1 through October 31. This time period may be adjusted pursuant to the procedures in § 648.120.

7. In § 648.124, paragraph (b) is revised to read as follows:

**§ 648.124 Minimum fish sizes.**

\* \* \* \* \*

(b) The minimum size for scup is 10.5 inches (26.67 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

\* \* \* \* \*

8. In § 648.125, the introductory text of paragraph (a) is revised to read as follows:

**§ 648.125 Possession limit.**

(a) No person shall possess more than 15 scup in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 680**

**RIN 0648-AW45**

**Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources**

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

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** Congress amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to require the Secretary of Commerce (Secretary) to approve the Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program (Program). The Program allocates BSAI crab resources among harvesters, processors, and coastal communities. Amendment 26 would modify the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner crabs (FMP) and the Program to Amendment 26 to the FMP would exempt 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 Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be received by May 20, 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 0648-AW45, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the FedereleRulemaking 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 9<sup>th</sup> 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) 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](mailto:glenn.merrill@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment.

The king and Tanner crab fisheries in the exclusive economic zone of the BSAI are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801). Amendments 18 and 19 to the FMP amended the FMP to include the Program. Regulations

implementing these amendments were published on March 2, 2005 (70 FR 10174) and are located at 50 CFR part 680.

The Council submitted Amendment 26 to the FMP for Secretarial review, which would make minor changes to the FMP necessary for the management of quota share (QS), which is a long-term harvest privilege, and individual fishing quota (IFQ), which is the annual allocation of a specific amount of crab issued to a person based on the amount of QS they hold.

Under the Program, NMFS issued QS to persons based on their qualifying harvest histories in BSAI crab fisheries during a specific period of time as defined under the Program. Four types of QS were issued 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 allocated catcher/processor vessel owner (CPO) QS based on the catch history of catcher processors using an LLP license; catcher vessel LLP license holders were issued catcher vessel (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 three 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 onboard catcher/processor vessels were issued catcher/processor crew (CPC) QS; captains and crew onboard catcher vessels were issued catcher vessel crew (CVC) QS.

The Program also established specific requirements for the use of QS and IFQ. Specifically, the Program requires that CVO QS/IFQ and CVC QS/IFQ 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 a binding arbitration system. These provisions were designed to provide stability to specific processors and communities with historic participation in the fisheries by ensuring that harvesters did not deliver catch without some degree of coordination and compensation to these traditional participants. The arbitration system established by the Program seeks to guarantee that price disputes arising among harvesters and processors can be fairly and equitably resolved.

The Program exempts CVC QS/IFQ from these requirements for the first three years of the Program, which expires on June 30, 2008. The Program did not apply these restrictions to CVC QS/IFQ due to the limited amount of CVC QS/IFQ issued relative to all other quota types, and the potential logistical complexities and additional costs these requirements could impose on CVC QS/IFQ holders. The three year grace period was intended to provide participants time to adapt to the Program. In addition, the Council recommended that this specific provision be reviewed after 18 months and an FMP amendment be developed if subsequent analysis indicated that revisions were appropriate.

If approved, Amendment 26 to the FMP would modify CVC QS and IFQ so that a person holding CVC QS/IFQ would not be subject to delivery, regionalization, or arbitration system requirements after June 30, 2008. As described in greater detail in the draft RIR/IRFA prepared for this action, based on 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 permanent exemption were not granted, the Council has recommended this FMP amendment to relieve these requirements. Currently, CVC QS/IFQ holders are not subject to these requirements, and this proposed rule would merely extend the existing exemption.

Public comments are being solicited on proposed Amendment 26 through the end of the comment period (see **DATES**). NMFS intends to publish a proposed rule that would implement Amendment 26 in the **Federal Register** for public comment, following NMFS( evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on Amendment 26 to be considered in the approval/disapproval decision on Amendment 26. All comments received by the end of the comment period on Amendment 26, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendments. To be considered, comments must be received—not just postmarked or otherwise transmitted—by the close of business on the last day of the comment period.

Dated: March 17, 2008.

**Emily H. Menashes**

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