

to these regulations, and because they do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be made available for public inspection and copying. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these regulations is Matthew Cooper, Office of the Associate Chief Counsel (Procedure and Administration).

#### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 301.6707A–1 is added to read as follows:

**§ 301.6707A–1 Failure to include on any return or statement any information required to be disclosed under section 6011 with respect to a reportable transaction.**

[The text of proposed § 301.6707A–1 is the same as the text of § 301.6707A–

1T published elsewhere in this issue of the **Federal Register**].

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 680

##### RIN 0648–AW73

##### 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:** The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program (Program) allocates BSAI crab resources among harvesters, processors, and coastal communities. Amendment 27 would amend the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) and the Program to include the statutory requirements of section 122(e) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 and modify the methods used to determine individual processor quota share (IPQ) use caps when crab are processed under custom processing arrangements. Amendment 27 also would modify limits on the amount of Aleutian Islands golden and red king crab IPQ that could be processed at a facility. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be submitted on or before November 10, 2008.

**ADDRESSES:** Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by “RIN 0648–AW73”, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal Web site 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 (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of Amendment 27, the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), the categorical exclusion 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 Web site at <http://www.fakr.noaa.gov/sustainablefisheries.htm>.

**FOR FURTHER INFORMATION CONTACT:** Glenn Merrill, 907–586–7228.

**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 of Commerce (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.

Under the Program, NMFS issued quota share (QS) to holders of License Limitation Program (LLP) licenses and crew onboard vessels. One type of QS, catcher vessel owner (CVO) QS is assigned to holders of LLP licenses who delivered their catch onshore. Each year QS yields an exclusive harvest privilege for a portion of the total allowable catch called individual fishing quota (IFQ).

NMFS also issued processor quota share (PQS) under the Program. Each year PQS yields an exclusive privilege to process a portion of the IFQ. This annual exclusive processing privilege is called individual processor quota (IPQ). CVO QS yields Class A and Class B IFQ. Class A IFQ is required to be delivered to a processor with matching IPQ within specific geographic regions. Class B IFQ can be delivered to any processor in any geographic region. Ninety percent of the IFQ derived from CVO QS is Class A IFQ, and the remaining 10 percent is Class B IFQ. These requirements ensure that catch continues to be delivered to processors and communities with historic investment in the fisheries.

Currently, the Program establishes limits, or caps, on the amount of PQS and IPQ that a person can hold, and caps on the amount of IPQ that can be used at a processing facility. In each of the nine BSAI crab fisheries under the Program, a person is limited to holding no more than 30 percent of the PQS initially issued in the fishery and using no more than the amount of IPQ resulting from 30 percent of the initially issued PQS in a given fishery. In addition, no person is permitted to use more than 60 percent of the IPQ crab in the Bering Sea *C. opilio* fishery designated for exclusive use in the north region. Finally, no processing facility can be used to process more than 30 percent of the IPQ in a crab fishery.

The Program is designed to minimize the potential that PQS and IPQ use caps could be evaded through the use of corporate affiliations or other legal relationships. To accomplish this, the Program calculates a person's IPQ use cap by summing the total amount of IPQ that (1) is held by that person; (2) is held by other persons who are affiliated with that person through common ownership or control; and (3) is custom processed at a facility at which an IPQ holder has at least a 10 percent direct or indirect ownership interest. Under existing practices, a custom processing arrangement exists when one IPQ holder (1) has a contract with the owners of a processing facility to have his crab

processed at that facility; (2) that IPQ holder does not have an ownership interest in the processing facility; and (3) that IPQ holder is not otherwise affiliated with the owners of that crab processing facility. In custom processing arrangements, the IPQ holder contracts with a facility operator to have the IPQ crab processed according to his specifications. Custom processing arrangements typically occur when an IPQ holder does not own an onshore processing facility or cannot economically operate a stationary floating crab processor in a specific region. NMFS applies IPQ crab that is custom processed at a facility at which an IPQ holder has at least a 10-percent direct or indirect ownership interest against both the IPQ holder owning the facility, and the IPQ holder who is having his crab custom processed at that facility. This method for applying the IPQ use cap effectively counts custom processed IPQ crab against two separate persons. Industry participants asserted that this IPQ use cap calculation method discouraged the use of custom processing arrangements.

The Council was prompted to reexamine IPQ use cap calculations in light of a statutory exemption to the existing method of IPQ use cap calculation for custom processed crab that was created by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) of 2006 (Pub. L. 109-479). Section 122(e) of the MSRA specifically directs NMFS to modify the means for calculating IPQ use caps that apply to a person who is custom processing *C. opilio* crab in the north region. To fully implement Section 122(e), the Council and NMFS would need to adopt conforming regulations, and define several of the terms used in Section 122(e).

In response, the Council initiated an analysis and received comments from the public on implementation of section 122(e) of the MSRA. During this process, participants in other crab fisheries indicated that their processing operations could become more efficient if IPQ use cap exemptions for custom processing arrangements congressionally mandated for the north region Bering Sea *C. opilio* fishery could also be extend to other crab fisheries. Specifically, participants in crab fisheries with historically low TAC allocations or active in crab fisheries in more remote geographic regions argued that exempting IPQ crab processed under custom processing arrangements from the IPQ use caps of the owners of facilities could improve their operational efficiency.

Based on the analysis and public input, the Council adopted Amendment 27 in December 2007, and submitted Amendment 27 to NMFS for review by the Secretary of Commerce. Amendment 27 would modify the FMP to exempt individual processor quota share (IPQ) that is subject to a custom processing arrangement in specific fisheries, at specific facilities, or in specific crab-dependent communities from the IPQ use cap of the processing facility owners. Amendment 27 also would establish limits on the amount of Aleutian Islands golden and red king crab IPQ that could be processed at a facility. Specifically, IPQ holders who own processing facilities would not be considered as using IPQ when IPQ crab is (1) received by an IPQ holder at their facility under a custom processing arrangement; (2) received and processed at specific types of processing facilities; or (3) derived from PQS earned from processing in specific communities where crab has been historically delivered. This change in IPQ use cap calculation would only apply to specific crab fisheries. In addition, Amendment 27 would limit the amount of Eastern Aleutian Islands golden king crab and Western Aleutian Islands red king crab that could be processed at a facility. Finally, Amendment 27 would contain the clarifications necessary to implement section 122(e) of the MSRA.

Public comments are being solicited on proposed Amendment 27 through the end of the comment period (see DATES). NMFS intends to publish a proposed rule in the **Federal Register** for public comment that would implement Amendment 27, following NMFS' evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the close of the comment period on Amendment 27 to be considered in the approval/disapproval decision on Amendment 27. All comments received by the end of the comment period on Amendment 27, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 27. Comments received after the end of the public comment period for Amendment 27, even if received within the comment period for the proposed rule, will not be considered in the approval/disapproval decision on the amendment. 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: September 8, 2008.

**James P. Burgess,**

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

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