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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 676

[Docket No. 950815207-5207-01; I.D. 080795E]

RIN 0648-A109

Limited Access Management of Federal Fisheries In and Off of Alaska; Individual Fishing Quota Program

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues an interim rule to allow vessels subject to existing Individual Fishing Quota (IFQ) Program recordkeeping and observer coverage requirements to fish for sablefish and Pacific halibut in a regulatory area in which persons aboard the vessel hold IFQ, even when the amount of IFQ held for the area is less than the total amount of IFQ species on board the vessel. This action is necessary to allow persons who hold IFQ for more than one IFQ regulatory area to harvest IFQ species in those areas during the same fishing trip and is intended to facilitate more efficient harvesting by IFQ holders.

DATES: Effective on August 25, 1995. Comments must be received at the following address no later than October 2, 1995.

ADDRESSES: Comments on the interim rule must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 W. 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the Regulatory Impact Review (RIR) for this action may be requested from the same address.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION: The IFQ Program limits access to the halibut and sablefish fixed gear fisheries through the annual issuance of IFQ. Further information about the IFQ program is contained in the preamble to the final implementing regulations published November 9, 1993 (58 FR 59375). Holders of IFQ may harvest their IFQ,

specific to species, vessel category, and regulatory area, any time during the IFQ fishing season. Close monitoring of the harvest of IFQ halibut and IFQ sablefish is essential to prevent exceeding the total allowable catch for the halibut and sablefish fixed gear fisheries in each regulatory area.

A regulation at 50 CFR § 676.16(d) was designed to ensure that IFQ holders harvested their IFQ in the designated regulatory area. This regulation, enforced by at-sea monitoring of catches, makes it unlawful for any person to:

Retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is operating, and that is currently held by all IFQ card holders on board the vessel.

Although this provision was not intended to require persons to offload all IFQ species caught in one regulatory area before fishing in another regulatory area, this is the practical effect, especially for an IFQ holder with small amounts of IFQ in multiple areas, because the IFQ held in one regulatory area frequently is too small to cover the IFQ species harvested in another regulatory area. For example, a fisherman with 5 mt of IFQ for halibut in each of two adjacent areas is not able to harvest the total of 10 mt of halibut during the same fishing trip. The fisherman would be in violation of § 676.16(d) as soon as he harvested any IFQ halibut in the second area in addition to the 5 mt already harvested in the first area and still on board the vessel because the total amount on board the vessel would exceed the fisherman's 5 mt IFQ for halibut in the second area.

Members of the fishing industry requested the North Pacific Fishery Management Council (Council) to relieve the requirement specified in § 676.16(d). At its meeting on June 21-25, 1995, the Council recommended that NMFS implement an emergency rule that would allow catcher/processor and catcher vessels subject to existing recordkeeping and observer coverage requirements to retain IFQ halibut or IFQ sablefish in excess of the total amount of unharvested IFQ applicable to that vessel in the IFQ regulatory area in which the vessel is operating. The Council also recommended that § 676.16(d), which currently prohibits such retention, be amended for future years.

NMFS determined that an interim rule could relieve this requirement for vessels subject to existing recordkeeping and observer coverage requirements. A

vessel operator must continue to comply with the requirements in paragraph (d), unless the vessel has an observer aboard pursuant to 50 CFR part 677 while fishing for the IFQ species in the regulatory area of concern and complies with the applicable existing daily fishing logbook requirements at 50 CFR §§ 301.15, 672.5(b)(2), and 675.5(b)(2). The observer and recordkeeping requirements will enable authorized officers to verify that the IFQ halibut or IFQ sablefish on board was lawfully harvested in the appropriate IFQ regulatory area by an IFQ card holder with sufficient unused IFQ applicable to the vessel category and IFQ regulatory area in which the IFQ halibut or IFQ sablefish was harvested.

Relieving the requirement provides added flexibility to the IFQ holder's fishing schedule while still allowing NMFS to monitor closely IFQ harvests. A vessel not subject to the daily fishing logbook requirements or without observer coverage will still remain prohibited from having more of an IFQ species on board in a particular regulatory area than authorized under existing paragraph (d).

Although the Council requested that this relief be provided in all IFQ regulatory areas, current provisions in 50 CFR part 301 require vessel clearances for IFQ halibut harvested in most of Area 4. This vessel clearance requirement, while not in direct conflict with the interim rule, will diminish some of the interim rule's relief. Specifically, § 301.14 requires a vessel operator who intends to harvest halibut in Areas 4A, 4B, 4C, or 4D to obtain a vessel clearance in designated ports before commencing harvest of halibut and before unloading any halibut. Although the requirements of § 301.14 will diminish the benefits of relieving the requirements of § 676.16(d), additional changes to the requirements of § 301.14 must be approved and adopted by the International Pacific Halibut Commission. Vessel clearances required in § 301.14 do not apply to vessels that do not harvest halibut.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that the requirement specified in § 676.16(d) for a vessel that has observer coverage and that complies with daily fishing log requirements does not benefit the accuracy of catch monitoring and has an unintended wasteful effect. Any delay in removing that requirement could result in unnecessary waste without providing significant public benefit. Accordingly, the AA finds good cause to waive the requirement to provide prior

notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Similarly, because this interim final rule exempts vessels that have observer coverage and that comply with daily fishing log regulations from the requirements of § 676.16(d), the AA finds that this interim final rule relieves a restriction and, as authorized by 5 U.S.C. 553(d)(1), may be made effective upon filing at the Office of the Federal Register.

This interim rule does not require the collection of new information. The collection of information necessary for this interim rule has been approved by the Office of Management and Budget (OMB), OMB control number 0648-0272 (regarding IFQs for Pacific halibut and sablefish), OMB control number 0648-0280 (North Pacific Fisheries Research Plan), and OMB control number 0648-0213 (logbook family of forms).

This interim rule implements minor revisions to the final rule implementing the IFQ Program and is categorically excluded from the requirement to prepare an environmental assessment (EA) in accordance with NAO 216-6.

This interim rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 676

Fisheries, Reporting and recordkeeping requirements.

Dated: August 24, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 676 is amended as follows:

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

1. The authority citation for 50 CFR part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

2. In § 676.16, paragraph (d) is revised to read as follows:

§ 676.16 General prohibitions.

* * * * *

(d) Except as provided at § 676.17, retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is deploying fixed gear, and that is currently held by all IFQ card holders aboard the vessel, unless the vessel has an observer aboard under § 677.10 of this chapter and maintains the applicable daily fishing log under § 301.15 of this title, §§ 672.5, and 675.5 of this chapter.

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