

[Federal Register: August 24, 1994]

DEPARTMENT OF COMMERCE
50 CFR Part 676

[Docket No. 940546-4219; I.D. 060994B]
RIN 0648-AD19

Limited Access Management of Federal Fisheries In and Off of
Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 30 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 34 to the FMP for Groundfish of the Gulf of **Alaska** (GOA), and to implement regulatory amendments affecting the Pacific halibut and sablefish fisheries in and off of the State of **Alaska** (**Alaska** or State). This action is necessary to raise the sablefish community development quota (CDQ) allocation limit for qualified applicants from 12 percent to 33 percent in order to allow total allocation of the sablefish CDQ reserve, and to expand the types of evidence that may be used to verify vessel leases for the Pacific halibut and sablefish individual fishing quota (IFQ) program.

EFFECTIVE DATE: September 23, 1994.

ADDRESSES: Copies of Amendments 30 and 34 to the FMPs and the Regulatory Impact Review may be obtained from the North Pacific Fishery Management Council (Council), P.O. Box 103136, Anchorage, AK 99510.

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

SUPPLEMENTARY INFORMATION:

Background

The Pacific halibut and sablefish CDQ program was designed to promote the revitalization of rural communities in Western **Alaska** by providing those communities **access** to nearby fishery resources. The program was developed under the authority of, and is consistent with, the management objectives of the Magnuson Fishery Conservation and Management Act and the Northern Pacific Halibut Act. This action implements Amendment 30 to the FMP for the BSAI, raising the sablefish CDQ allocation limit for a qualified applicant from 12 percent to 33 percent. Amendment 34 to the FMP for the GOA corrects the inadvertent inclusion of the CDQ program in that FMP by removing and reserving section 4.4.1.1.8.

This action will not change the amount of sablefish available for harvest by persons participating in the Pacific halibut and sablefish IFQ program. The sablefish CDQ reserve, 20 percent of the annual fixed-gear total allowable catch of sablefish for each management area in the BSAI, will be the same amount under this action as it was under the previous management program.

Inclusion of IPHC Area 4A as a Compensating Non-CDQ Area

Title 50 CFR 676.24(i)(1) has been amended to include regulatory area 4A, because no halibut quota from area 4A is being made available to the halibut CDQ program.

Vessel Lease Verification

Title 50 CFR 676.20(a)(1)(iii) has been amended to expand the types of evidence that can be submitted to verify a vessel lease. This implements the Council's intent to open the appeals process to persons who claim they had a lease, but who are unable to produce the specific evidence required under the previous regulatory language.

Further information on any of the aforementioned topics can be obtained from the preamble to the proposed rule published on May 31, 1994 (59 FR 28048).

Response to Comments

Six comments were received on Amendments 30 and 34. Five were from Federal agencies, and merely stated that the action was reviewed and no comments were forthcoming. The sixth comment was in support of raising the sablefish CDQ allocation from 12 to 33 percent because it would allow the entire amount of the CDQ sablefish reserve to be allocated.

The FMP amendatory language and implementing regulatory language of this action are identical to that in the proposed rule published on May 31, 1994 (59 FR 28048).

Classification

The Deputy General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant impact on a substantial number of small entities.

This final 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 18, 1994.

Gary C. 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 part 676 continues to read as follows:

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

2. Section 676.20(a)(1)(iii) is revised to read as follows:

Sec. 676.20 Individual allocations.

* * * * *

(a) * * *

(1) * * *

(iii) Conclusive evidence of a vessel lease will include a written vessel lease agreement or a notarized statement from the vessel owner and lease holder attesting to the existence of a vessel lease agreement

at any time during the QS qualifying years. Conclusive evidence of a vessel lease must identify the leased vessel and indicate the name of the lease holder and the period of time during which the lease was in effect. Other evidence, which may not be conclusive, but may tend to support a vessel lease, may also be submitted.

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3. Section 676.24 is amended by revising paragraphs (b), (e)(1) and (i)(1) to read as follows:

Sec. 676.24 Western **Alaska** Community Development Quota Program.

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(b) Sablefish CDQ Program. In the proposed and final harvest limit specifications required under Sec. 675.20(a) of this chapter, NMFS will specify 20 percent of the fixed gear allocations of sablefish in each Bering Sea and Aleutian Islands subarea, as provided under Sec. 675.24(c) of this chapter, as a sablefish CDQ reserve, exclusive of issued QS. Portions of the CDQ reserve for each subarea may be allocated for the exclusive use of CDQ applicants in accordance with CDPs approved by the Governor in consultation with the Council and approved by the Secretary. NMFS will allocate no more than 33 percent of the total CDQ for all subareas combined to any one applicant with an approved CDQ application.

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(e) Secretarial review and approval of CDPs. (1) Upon receipt by the Secretary of the Governor's recommendation for approval of

proposed

CDPs, the Secretary will review the record to determine whether the CDQ

applicant eligibility criteria and the evaluation criteria set forth in

paragraph (f) of this section have been met. The Secretary will then approve or disapprove the Governor's recommendation within 45 days of its receipt. In the event of approval, the Secretary will notify the Governor and the Council in writing, including the Secretary's reasons for approval. The decision, including the percentage of the sablefish and halibut CDQ reserves allocated to each CDP and the availability of the findings, will be published in the Federal Register. NMFS will allocate no more than 33 percent of the sablefish CDQ reserve to any one applicant with an approved CDP. A CDQ applicant may not concurrently receive more than one halibut CDQ or more than one sablefish CDQ, and only one application for each type of CDP per CDQ applicant will be accepted.

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(i) Compensation for CDQ allocations. (1) The Regional Director will compensate persons who receive a reduced halibut QS in IPHC regulatory areas 4B, 4C, 4D, or 4E because of the halibut CDQ program by adding halibut QS from IPHC regulatory areas 2C, 3A, 3B, and 4A. This compensation of halibut QS from areas 2C, 3A, 3B, and 4A will be allocated in proportion to the amount of halibut QS foregone due to the CDQ allocation authorized by this section.

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