

with deflector panels made from polypropylene or polyethylene netting. In the Gulf SFSTCA and the Atlantic SFSTCA, soft TEDs are not approved TEDs. Prior to December 31, 1996, in areas other than the Gulf SFSTCA and Atlantic SFSTCA, the following soft TEDs are approved TEDs:

\* \* \* \* \*

(5) *Revision of generic design criteria, allowable modification of hard TEDs, additional special hard TEDs.*

(i) The Assistant Administrator may revise the generic design criteria for hard TEDs set forth in paragraph (e)(4)(i) of this section, may approve special hard TEDs in addition to those listed in paragraph (e)(4)(ii) of this section, or may approve allowable modifications to hard TEDs in addition to those authorized in paragraph (e)(4)(iv) of this section, by a regulatory amendment, if, according to a NMFS-approved scientific protocol, the TEDs demonstrate a sea turtle exclusion rate of 97 percent or greater (or an equivalent exclusion rate). Testing under the protocol must be conducted under the supervision of the Assistant Administrator, and shall be subject to all such conditions and restrictions as the Assistant Administrator deems appropriate. Any person wishing to participate in such testing should contact the Director, Southeast Fisheries Science Center, NMFS.

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## 50 CFR Parts 672 and 676

[Docket No. 960401095-6095-01; I.D. 032596A]

RIN 0648-AH61

### Groundfish of the Gulf of Alaska; Limited Access Management of Federal Fisheries In and Off of Alaska; Improve IFQ Program

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule to amend portions of the regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska. This proposed rule also would eliminate a prohibition pertaining to IFQ sablefish in the regulations governing the groundfish fisheries in the Gulf of Alaska (GOA).

After the first year of the IFQ Program's operation, the North Pacific Fishery Management Council (Council) and NMFS recognize aspects of the program that need further refinement. This action is necessary to make those refinements and is intended to improve the ability of NMFS to manage the Pacific halibut and sablefish fixed gear fisheries.

**DATES:** Comments must be received by May 24, 1996.

**ADDRESSES:** Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; Attn: Lori J. Gravel, or deliver to Room 453, 709 W. 9th Street, Juneau, AK.

**FOR FURTHER INFORMATION CONTACT:** James Hale, 907-586-7228.

#### SUPPLEMENTARY INFORMATION:

##### Background

Regulations codified at 50 CFR part 676 implement the IFQ Program, a limited access system for management of the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in and off of Alaska, under the authority of the Northern Pacific Halibut Act with respect to halibut and the Magnuson Fishery Conservation and Management Act with respect to sablefish. Further information on the rationale for and implementation of the IFQ Program is contained in the preamble to the final rule implementing that program published in the Federal Register, November 9, 1993 (58 FR 59375), and in the preambles to subsequent rules amending those regulations.

This action would amend various portions of the regulations implementing the IFQ Program and eliminate a prohibition in the GOA groundfish regulations that pertains to IFQ sablefish. These changes are intended to improve the ability of fishermen to conduct fishing operations under the IFQ Program, to refine NMFS' ability to administer the program effectively, and to make the program more responsive to conservation and management goals for Pacific halibut and sablefish fisheries.

##### Elimination of the 72-hour "Fair Start" Provision

Section 672.7(k) would be repealed to eliminate the prohibition against deploying fixed gear during the 72-hour period preceding the opening of fixed gear sablefish fishing seasons. Currently, fishermen with hook-and-line gear legally deployed in other GOA fisheries during the 72-hour period immediately

before the opening of sablefish seasons are prohibited from participating in those seasons. Under open access, this prohibition was designed to prevent such fishermen from gaining an advantage over fishermen who could not legally deploy hook-and-line gear until the opening of the sablefish season. The regulation, written in conformity with a similar restriction in the Pacific halibut fishery regulations (50 CFR part 301), was necessary under an open access system to ensure that all fishermen in fixed gear sablefish fisheries would have equitable opportunities for harvest during extremely brief fishing seasons. NMFS has determined that this prohibition is no longer necessary. Under the IFQ Program, which lengthened GOA fixed gear sablefish seasons, the race for fish and the preemption of grounds are no longer problems. The regulation at § 672.7(k) would therefore be removed.

##### Revision of the Owner-aboard Restriction

Section 676.13(f)(1) would be revised to allow fishermen to leave their vessels during the time between their arrival in port and the beginning of landing operations. Current IFQ regulations require IFQ holders to be aboard vessels used to harvest IFQ fish during all fishing operations. The Council intended this requirement to ensure that the catcher vessel fleet remain primarily an owner-operator fleet and that the IFQ Program not profoundly change the socio-economic character of the fixed gear fishing fleet or the coastal Alaskan communities where this fleet is based. To this end, § 676.13(f)(1) requires IFQ holders to remain onboard vessels containing IFQ harvest until all IFQ species have been offloaded. A provision at § 676.22(d) permits waiving of the owner-aboard restriction in the event of extreme personal emergency.

While continuing to require that IFQ holders be aboard during harvest and landing of IFQ fish, except as allowed by the emergency waiver provision, the Council recognizes that less urgent occasions may oblige an IFQ holder to leave his or her vessel while in port but before offloading of IFQ fish has commenced. Section 676.14(b)(1) allows IFQ landings only between the hours of 0600 and 1800, Alaska local time (A.l.t.). A fisherman who arrives in port after 1800 hours (hrs), A.l.t., must remain on his or her vessel overnight until IFQ landings may commence the following day. Such inconveniences are not necessary to preserve the intent of the Council.

Accordingly, the Council requested that NMFS remove the restriction. This action would amend regulations at

§ 676.13(f)(1) to relieve the restriction that IFQ fishermen remain aboard in the interim between arriving in port and unloading IFQ harvests.

#### Delivery of IFQ Halibut Bycatch by Salmon Fishermen

Exceptions to two landing requirements at § 676.14 are proposed to encourage salmon fishermen with halibut IFQ to land incidental catches of halibut. A provision would be added at § 676.14(a) to relieve salmon trollers of the IFQ Program's 6-hour prior notice of landing requirement for the purpose of delivering small amounts of IFQ halibut bycatch concurrently with legal salmon landings. Salmon troll fishermen who possess sufficient halibut IFQ are required to keep halibut bycatch. Under current regulations, such fishermen are prohibited from unloading IFQ species along with salmon harvests unless they have given NMFS the 6-hour prior notice of landing required of all IFQ landings.

Salmon troll fishermen have requested some relief from the prior-notice reporting requirement to manage small amounts of halibut bycatch taken incidental to salmon harvests. No prior notice of landing is required for salmon landings, and the fishermen wishing to unload salmon but who had not provided sufficient prior notice cannot offload IFQ halibut bycatch at the same time.

Also, a provision would be added at § 676.14(b) to relieve salmon fishermen of the restriction that IFQ landings be made between the hours of 0600 and 1800, A.L.T., only. This 12-hour landing window and the 6-hour prior notice requirement are integral aspects of the IFQ Program, providing NMFS with means by which to ensure compliance with program regulations. Nevertheless, NMFS recognizes that these requirements may contribute to the illegal discard of IFQ halibut bycatch in the salmon fishery. Therefore, NMFS would exempt fishermen from the 6-hour prior notice requirement and the 12-hour landing window for the sole purpose of landing 500 lb (0.227 metric tons (mt)) or less of IFQ halibut bycatch concurrently with legal salmon landings. IFQ landing reports for such landings would still be required as currently prescribed. NMFS reasons that 500 lbs (0.227 mt) is large enough to cover halibut bycatches in the salmon troll fishery but not so large as to jeopardize the effective monitoring of IFQ landings.

#### Revision of Shipment Report Requirement

This action would revise § 676.14(c)(2) to modify IFQ Shipment Report requirements. The IFQ Program contains a number of enforcement checks designed to discourage and detect illegal transactions and marketing of IFQ harvests. By requiring that a Shipment Report accompany the transportation of IFQ species beyond the landing point, NMFS has the ability to detect the shipment or marketing of IFQ species illegally harvested or landed. Current regulations at § 676.14(c)(1) require a Shipment Report to be submitted to NMFS before a shipment commences. Regulations at § 676.14(c)(2) further require that a Shipment Report or a bill of lading containing the same information accompany a shipment of IFQ fish to all points of sale within Alaska and to the first point of sale outside of Alaska. After the first year of the IFQ Program's operation, NMFS believes the current requirement to be unnecessary to monitor and enforce the IFQ Program effectively. The proposed regulation would modify the current regulation to require that the Shipment Report be filled out prior to shipment and submitted to NMFS within 1 week after the date on which the shipment occurred. The proposed regulation also would require that the Shipment Report or a bill of lading accompany a shipment of IFQ species to the first destination beyond the landing point only. These changes would relieve a reporting requirement on shipments of IFQ fish by allowing Shipment Reports to be submitted up to 1 week after the shipment occurred. In addition, a registered buyer would be relieved of the requirement to produce multiple copies of the Shipment Report.

#### Revision of Transshipment Requirements

Section 676.14(e) would be revised to clarify requirements governing transshipment of IFQ species. The current regulation may be misinterpreted to mean that 24-hour prior notice of a transshipment is sufficient to "authorize" a transshipment. Authorization of transshipments allows NMFS the opportunity to monitor the movement of IFQ harvests and thus ensure compliance with program regulations. Unless such requests are approved by NMFS 24 hours in advance and apprise NMFS of the specific location where a transshipment would occur, the enforcement rationale underlying the requirement would be lost. The

proposed amendment would specify that authorization from a clearing officer to transship IFQ species must itself be obtained by the prospective transshipper 24 hours before the proposed transshipment could occur. The amendment would further require that the request for authorization specify the date and location of the proposed transshipment.

#### Tagged Halibut and Sablefish

A new section would be added to part 676 to allow tagged halibut and sablefish to be landed without being debited to a person's IFQ halibut or IFQ sablefish quota. The International Pacific Halibut Commission (IPHC) has requested that IFQ regulations be amended to encourage the landing of tagged halibut in support of the IPHC's biological research on halibut. The recapture of tagged fish yields important scientific data on growth and migration. The IPHC is concerned that such data could be lost if the landing and reporting of tagged halibut would place a fisherman in violation of IFQ regulations. Accordingly, NMFS would add to IFQ regulations a provision that tagged halibut landed pursuant to § 301.18 of Pacific Halibut Fisheries Regulations not be counted against an IFQ holder's annual Pacific halibut quota. This provision would also apply to the capture of tagged sablefish to promote NMFS' fisheries research.

#### Elimination of Certified Mail Requirements

Sections 676.20(f)(3) and 676.21(c)(3) would be amended to eliminate certified mail requirements. The regulations implementing the IFQ Program require NMFS to send IFQ permits and notification of eligibility for quota share (QS) transfer by certified mail. The purpose of this requirement was to ensure timely receipt of such permits and notices. In practice, this requirement has been ineffective, since certified mail ensures timely delivery but not timely receipt; a substantial number of certified mailings remained uncollected in post office boxes, thus defeating the purpose of the requirements and providing no substantial benefit to participants in the program. To make the IFQ Program more cost-effective, NMFS would eliminate certified mail requirements but retain the right to use certified mailings on a discretionary basis.

#### Revisions to the Transfer Process

The transfer process for QS and IFQ would be revised to address two issues identified by NMFS and the fishing industry during the first year of fishing

under the IFQ Program. First, the provision for leasing QS at § 676.21(g) would be revised to allow leasing of IFQ under the same conditions. Under the current regulations, persons are prohibited from leasing more than 10 percent of their QS assigned to vessel categories B, C, or D. The Council intended to allow all persons holding QS assigned to vessel categories B, C, or D to lease up to 10 percent of that QS for a period of 3 years. This intent was partially thwarted by Amendment 31 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 35 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, more commonly known as the Modified Block Provision to the IFQ Program. The Modified Block Provision prohibited the transfer of any QS block except as an undivided whole. Because leasing is considered a transfer of QS, this prevented a person from leasing blocked QS, unless the blocked QS to be leased was less than or equal to 10 percent of the QS held by that person for an IFQ species in an IFQ regulatory area. NMFS determined that allowing the lease of IFQ separate from QS would restore the full benefit of the Council's intent. This would allow a person to transfer up to 10 percent of their annual allocation of IFQ for an IFQ species in an IFQ regulatory area, whether the QS from which the IFQ was derived is blocked or unblocked, because only QS, and not IFQ, is blocked. Regulations at § 676.21(a), (f)(1), and (f)(2) also would be revised to reflect this change.

Second, new paragraphs § 676.21(i)(1) and (2) would be added to provide for the transfer of all QS and IFQ to the surviving spouse of a deceased individual holder of QS or IFQ by right of survivorship, unless contrary intent was expressed by the deceased holder of QS or IFQ in a probated will. This provision also would allow the surviving spouse, first, to transfer any current year's IFQ for the duration of the allocation year and, second, to transfer annual allocations of IFQ resulting from the total QS transferred by right of survivorship for 3 calendar years from the date of the death of the deceased holder of QS or IFQ. The transfer of QS and IFQ to the surviving spouse is proposed in response to requests to NMFS from the industry and is consistent with the Council's intent for the IFQ program as evidenced by the FMP sections cited above. This action also would benefit surviving spouses who were not initially issued QS or who are not IFQ

crew members because without meeting those criteria the surviving spouse would not be eligible to harvest IFQ species. The new provision would allow a surviving spouse to transfer the total IFQ resulting from QS for a period of 3 years and thereby obtain pecuniary benefit from the QS for that period. NMFS determined that 3 years would provide the surviving spouse with adequate time to resolve permanently any issues that may arise due to receiving QS or IFQ by right of survivorship, including subsequent transfers. An Application for Transfer of QS or IFQ to the surviving spouse would be approved by the Director, Alaska Region, NMFS, when sufficient evidence, such as a death certificate, has been provided to verify the death of the holder of QS or IFQ. If the deceased provided for distribution of the QS or IFQ in a will that is probated, then the QS or IFQ would be transferred under the provisions for transfer as a result of court order or operation of law set out in § 676.21(e) and other transfer provisions of § 676.21.

#### Classification

This proposed rule would not require the collection of information not already approved by the Office of Management and Budget (OMB). The collection of information originally authorized for the IFQ Program included in the request for transshipment authorization information regarding the primary port location of the proposed transshipment. The requirement that transshipments take place in primary ports only was subsequently removed from regulations implementing the IFQ Program. However, the information required remains accounted for and approved by OMB (OMB control number 0648-0272) regarding IFQs for Pacific halibut and sablefish. This proposed action simply reinstates the requirement that requests for transshipment authorization include notice of the location of the proposed transshipment, although that location no longer need be a primary port. The estimated response time for the transshipment notice is 6 minutes. The proposed action also restates existing requirements for prior notices of landing, shipment reports, and applications for transfer of IFQs, all also approved under OMB control number 0648-0272. The respective estimated response times for these requirements are 12 minutes, 12 minutes, and 2 hours. No additional burden is required of the public for information not already projected for IFQ recordkeeping and reporting requirements. Notwithstanding any other provision of law, no person is required to respond to

nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The changes contained in this action would: (1) Relax restrictions and eliminate prohibitions that have proven unnecessary during the IFQ Program's first year of operation that would provide fishermen greater freedom to conduct operations in a manner more personally and economically convenient; (2) reduce NMFS' administrative costs by eliminating the certified mail requirements of the IFQ Program that would make administration of the IFQ Program more cost-effective, with no reduction of services and at no expense to IFQ Program participants or related businesses; (3) clarify a reporting requirement that may be ambiguous by simply reinstating the requirement that requests for authorization include notice of the location, although that location no longer need be a primary port; and (4) provide additional benefits to IFQ cardholders and their families by revising the transfer process to allow QS and IFQ to be used by spouses of deceased IFQ cardholders and allow IFQ to be transferred similarly to QS. This action comprises regulatory and administrative adjustments meant to improve the IFQ Program's benefits to fishermen and remove inhibitions on the ability of small businesses to compete within the IFQ Program. None of these changes would impose any additional cost or burden on small entities participating in or affected by the IFQ Program, nor would these changes require any additional effort or information from IFQ fishermen. As a result, a regulatory flexibility analysis was not prepared.

#### List of Subjects

##### *50 CFR Part 672*

Fisheries, Reporting and recordkeeping requirements.

##### *50 CFR Part 676*

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 17, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 676 are proposed to be amended as follows:

#### **PART 672—GROUND FISH OF THE GULF OF ALASKA**

1. The authority citation for part 672 continues to read as follows:

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

2. In § 672.7, paragraph (k) is removed and reserved.

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

3. The authority citation for part 676 continues to read as follows:

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

4. In § 676.13, paragraph (f)(1) is revised to read as follows:

##### **§ 676.13 Permits.**

\* \* \* \* \*

(f) *Inspection.* (1) A legible copy of any IFQ permit issued under this section must be carried on board the vessel used by the permitted person to harvest IFQ halibut or IFQ sablefish at all times that such fish are retained on board. Except as specified in § 676.22(d), an individual that is issued an IFQ card must remain aboard the vessel used to harvest IFQ halibut or IFQ sablefish with that card during all fishing operations until arrival at the point of landing and during all IFQ landings. The IFQ cardholder must present a copy of the IFQ permit and the original IFQ card for inspection on request of any authorized officer, clearing officer, or registered buyer purchasing IFQ species. Nothing in this paragraph would prevent an individual that is issued an IFQ card from being absent from the vessel used to harvest IFQ halibut or IFQ sablefish between the time the vessel arrives at the point of landing until the commencement of landing.

\* \* \* \* \*

5. In § 676.14, paragraphs (a), (b)(1), (c), and (e) are revised to read as follows:

##### **§ 676.14 Recordkeeping and reporting.**

\* \* \* \* \*

(a) *Prior notice of landing.* Except as provided in paragraph (a)(2) of this section, the operator of any vessel making an IFQ landing must notify the Alaska Region, NMFS, no later than 6 hours before landing IFQ halibut or IFQ

sablefish, unless permission to commence an IFQ landing within 6 hours of notification is granted by a clearing officer.

(1) Prior notice of landings required by this section must be made to the toll-free telephone number specified on the IFQ permit between the hours of 0600 and 2400, Alaska local time. The notification must include the name and location of the registered buyer(s) to whom the IFQ halibut or IFQ sablefish will be landed, the vessel identification, the estimated weight of the IFQ halibut or IFQ sablefish that will be landed and the identification number(s) of the IFQ card(s) that will be used to land the IFQ halibut or IFQ sablefish, and the anticipated date and time of landing.

(2) The operator of a category "B," "C," or "D" vessel, as defined at § 676.20(a)(2), making an IFQ landing of IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 676.22(c)(3)(ii) and concurrent with a legal landing of salmon is exempt from the prior notice of landing required by this section.

(b) \* \* \*

(1) IFQ landings may commence only between the hours of 0600 and 1800 Alaska local time unless:

(i) Permission to land at a different time is granted in advance by a clearing officer; or

(ii) IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 676.22(c)(3)(ii) is landed concurrently with a legal landing of salmon by a category "B," "C," or "D" vessel, as defined at § 676.20(a)(2).

\* \* \* \* \*

(c) *Shipment Report.* All registered buyers, other than those conducting dockside sales, must report their shipments or transfers of IFQ halibut and IFQ sablefish. A Shipment Report must be submitted for any shipment or transfer of IFQ halibut or IFQ sablefish to any location other than the location of the IFQ landing. Shipment Reports must specify the species and product type being shipped, the number of shipping units, fish product weight, the name of the shipper and receiver, the name and address of the consignee and consignor, the mode of transportation, and the intended route.

(1) A registered buyer must complete a Shipment Report for each shipment or transfer from that registered buyer within 12 hours of its commencement and ensure that the Shipment Report is submitted to, and received by, the Alaska Region, NMFS, within 7 days of the date shipment or transfer commenced.

(2) A registered buyer must ensure that a copy of the Shipment Report or

a bill of lading that contains the same information accompanies the shipment to its first destination.

(3) A registered buyer must submit a revised Shipment Report if any information on the original Shipment Report changes prior to the first destination of the shipment. A revised Shipment Report must be clearly labeled "Revised Shipment Report," and must be received by the Alaska Region, NMFS, within 7 days of the change.

\* \* \* \* \*

(e) *Transshipment.* No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization from a clearing officer must be obtained for each instance of transshipment at least 24 hours before the transshipment is intended to commence. Requests for authorization must specify the date and location of the transshipment.

\* \* \* \* \*

6. Section 676.19 is added to Subpart B to read as follows:

##### **§ 676.19 Tagged halibut and sablefish.**

(a) Nothing contained in this part shall prohibit any person at any time from retaining and landing a Pacific halibut or sablefish that bears at the time of capture a research tag from any state, Federal, or international agency, provided that the halibut or sablefish is:

(1) A Pacific halibut landed pursuant to 50 CFR 301.18; or

(2) A sablefish landed in accordance with the Tagged Groundfish Research Program.

(b) Tagged halibut or sablefish landed pursuant to paragraphs (a)(1) and (a)(2) of this section shall not be calculated as part of an individual's IFQ harvest or be debited against an individual's halibut or sablefish IFQ.

7. In § 676.20, paragraph (f)(3) is revised to read as follows:

##### **§ 676.20 Individual allocations.**

\* \* \* \* \*

(f) \* \* \*

(3) The Regional Director shall issue to each QS holder, pursuant to § 676.13, an IFQ permit accompanied by a statement specifying the maximum amount of halibut and sablefish that may be harvested with fixed gear in a specified IFQ regulatory area and vessel category as of January 31 of that year. Such IFQ permits will be mailed to each QS holder at the address on record for that person after the beginning of each fishing year but prior to the start of the annual IFQ fishing season.

\* \* \* \* \*

8. In § 676.21, paragraphs (a), (c)(3), (f)(1), (f)(2), and (g) are revised, and paragraph (i) is added to read as follows:

**§ 676.21 Transfer of QS and IFQ.**

\* \* \* \* \*

(a) *Transfer procedure.* An Application for Transfer of QS/IFQ (Application for Transfer) must be approved by the Regional Director before a person may use IFQ to harvest IFQ halibut or IFQ sablefish, whether the IFQ was the result of a direct transfer or the result of a QS transfer. An Application for Transfer will not be approved until the Regional Director has reviewed and approved the transfer agreement signed by the parties to the transaction. The Regional Director shall provide an Application for Transfer form to any person on request. Persons who submit an Application for Transfer to the Regional Director for approval will receive notification of the Regional Director's decision to approve or disapprove the Application for Transfer, and, if applicable, the reason(s) for disapproval, by mail posted on the date of that decision, unless another communication mode is requested on the Application for Transfer. QS or IFQ accounts affected by an approved Application for Transfer will change on the date of approval. New QS certificates and IFQ permits, as

necessary, will be sent with the notice of the Regional Director's decision.

\* \* \* \* \*

(c) \* \* \* \* \*  
(3) Applicants will be notified by mail of the Regional Director's approval of an application for eligibility.

\* \* \* \* \*

(f) *Transfer restrictions.* (1) Except as provided in paragraph (e) or paragraph (f)(2) of this section, only persons who are IFQ crew members or who were initially issued QS assigned to vessel categories B, C, or D, and meet the other requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it.

(2) Except as provided in paragraph (f)(3) of this section, only persons who are IFQ crew members, and meet the other requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it, in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish.

\* \* \* \* \*

(g) *Transfer of IFQ.* (1) Pursuant to paragraph (a) of this section, an Application for Transfer must be approved by the Regional Director before a person may use any IFQ that results from a direct transfer to harvest halibut or sablefish. After approving the Application for Transfer, the Regional

Director will change any IFQ accounts affected by the approved transfer and issue all necessary IFQ permits.

(2) (Applicable until January 2, 1998). A person may transfer no more than 10 percent of the total IFQ resulting from QS held by that person and assigned to vessel categories B, C, or D for any IFQ species in any IFQ regulatory area to one or more persons for any fishing year.

\* \* \* \* \*

(i) *Transfer to the surviving spouse.* (1) On the death of an individual who holds QS or IFQ, the surviving spouse receives all QS and IFQ held by the decedent by right of survivorship unless a contrary intent was expressed by the decedent in a will which is probated. The Regional Director will approve an Application for Transfer to the surviving spouse when sufficient evidence has been provided to verify the death of the individual.

(2) The Regional Director will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (g)(2) of this section.

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