

entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

This proposed rule has no private property takings implications as defined in Executive Order 12630. The only effect of this rule will be to make it easier for businesses to import and export wildlife directly through Atlanta, Georgia. This action does not contain any federalism impacts as described in Executive Order 12612. This proposed rule does not contain any information collection requirements which require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* These proposed changes in the regulations in Part 14 are regulatory and enforcement actions which are covered by a categorical exclusion from National Environmental Policy Act procedures under 516 Department Manual; the proposed changes have no Environmental Justice implications under Executive Order 12898. A determination has been made pursuant to Section 7 of the Endangered Species Act that the proposed revision of Part 14 will not effect federally listed species. The Department has certified that these regulations meet the applicable standards provided in Section 2(a) and 2(b)(2) of Executive Order 12778.

Author

The originator of this proposed rule is Paul McGowan, Law Enforcement Specialist, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, DC.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Service proposes to amend title 50, chapter I, subchapter B of the Code of Federal Regulations as set forth below.

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. The authority citation for part 14 is revised to read as follows:

Authority: 16 U.S.C. 704, 712, 1382, 1538(d)-(f), 1540(f), 3371-3378, 4223-4244, and 4901-4916; 18 U.S.C. 42; 31 U.S.C. 483(a).

§ 14.12 [Amended]

2. Section 14.12(k) is amended by removing the word "and".

3. Section 14.12(l) is amended by removing the period and adding the word "and" preceded by a semicolon.

4. Section 14.12 is amended by adding the following new paragraph (m):

§ 14.12 Designated Ports.

* * * * *

(m) Atlanta, Georgia.

Dated: September 25, 1995.

George T. Frampton,
Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 676

[Docket No. 951002243-5243-01; I.D. 092695B]

RIN 0648-AG99

Limited Access Management of Federal Fisheries In and Off of Alaska; Relieving Transfer Restrictions on Individual Fishing Quota Shares

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 that would implement Amendment 32 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 36 to the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA). These FMP amendments are necessary to facilitate full utilization of the allocated resources managed under the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska. This action is intended to relieve transfer restrictions on Community Development Quota compensation quota shares (CDQ compensation QS), thereby allowing transfers to persons who could use the resulting IFQ to harvest the resource.

DATES: Comments must be received by November 24, 1995.

ADDRESSES: Comments 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 also be obtained from this address.

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

SUPPLEMENTARY INFORMATION:

Background

Beginning with the 1995 fishing season, the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in the areas defined in 50 CFR 676.10 (b) and (c) have been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding quota share (QS), which represents a transferable harvest privilege, receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest, within specified limitations, IFQ species. Further information on the implementation of the IFQ Program, and the rationale supporting it, are contained in the preamble to the final rule implementing the IFQ Program published in the Federal Register, November 9, 1993 (58 FR 59375). Additions and/or changes to the final rule implementing the IFQ Program were published June 1, 1994 (59 FR 28281); August 24, 1994 (59 FR 43502), corrected October 13, 1994 (59 FR 51874); October 7, 1994 (59 FR 51135); February 2, 1995 (60 FR 6448); March 3, 1995 (60 FR 11916); March 6, 1995 (60 FR 12152); and May 5, 1995 (60 FR 22307).

The CDQ Program was proposed in conjunction with the IFQ Program. The CDQ Program apportioned designated percentages of the annual fixed gear total allowable catch (TAC) for Pacific halibut and sablefish to eligible western Alaska communities. These designated percentages were intended to provide residents of eligible communities with stable, long-term employment and to increase the participation of residents of eligible communities in near-shore fisheries.

Apportioning designated percentages of the annual fixed gear TAC for Pacific halibut and sablefish to eligible western Alaska communities reduced the amount of that TAC available for harvest by persons receiving annual allocations of IFQ. Therefore, CDQ compensation QS were issued as partial compensation to persons in CDQ areas who received QS because the amount of Pacific halibut and sablefish available for

harvest with IFQ in CDQ areas was reduced.

Amendments 32 and 36 are intended to increase the remunerative value of CDQ compensation QS by relieving the existing transfer restrictions on initial recipients of those shares. Transfer restrictions are relieved by (1) exempting some CDQ compensation QS from the block provision and (2) allowing some CDQ compensation QS to be transferred across catcher vessel length categories.

Exemption From the Block Provision

The block provision was added to the IFQ Program to prevent excessive consolidation of fishing privileges. The analysis for the block provision indicated that preventing excessive consolidation could result in higher levels of harvesting employment. Higher levels of employment for harvesters and the maintenance of diversity in fishing operations participating in the IFQ program were the main goals of the block provision.

Preventing excessive consolidation was accomplished by (1) issuing as a block all initial allocations of QS that represented less than 20,000 lb (9 mt) of IFQ based on the 1994 TAC and (2) restricting persons from holding more than two blocks for each IFQ species and IFQ regulatory area. One unintended effect was the blocking of all CDQ compensation QS.

Blocked CDQ compensation QS, especially small blocks (several pounds to several hundred pounds of IFQ), would be difficult to market, because any block, no matter how small, would be counted as part of the two-block restriction. This difficulty in marketing would be contrary to the purpose of CDQ compensation QS, which is to compensate persons who received less QS in their traditional fishing areas because of allocations of the TAC to the CDQ Program. Exempting CDQ compensation QS from the block provision provides greater flexibility to persons who plan to transfer their CDQ compensation QS.

Transfer Across Catcher Vessel Length Categories

The Council included catcher vessel length categories in the IFQ Program because of significant public concern that harvest privileges would be consolidated excessively into large vessel fishing operations. By restricting transfers across catcher vessel length categories, the Council ensured that the fixed gear fishing fleet would remain relatively diversified and similar in overall character to the fleet that existed prior to the program's implementation.

The Council determined that maintaining a diversified fleet is critical to the economic and social well-being of coastal communities in Alaska that rely, in part, on the small vessel fleet as a source of revenue.

This objective would not be contradicted by a 1-year period of relief from the restriction against transferring across catcher vessel length categories. Another vessel category designated by fish product type (Category "A"—freezer vessels of any length) was also included in the IFQ Program; however, because Category "A" is not restricted by length, it is not included in the 1-year period of relief. A large portion of the CDQ compensation QS recipients are small vessel operators based in coastal communities located on the Bering Sea. Although these small vessel operators historically participated in the Bering Sea and Aleutian Island Management Area (BSAI), they received CDQ compensation QS in areas (e.g., GOA) where the fishery is prosecuted by large vessel operators. In turn, these larger vessel operators often were initially issued QS in the BSAI. The proposed action would enable small vessel operators in the BSAI to transfer their CDQ compensation QS in the GOA to larger vessel operators who, in turn, could transfer their initially issued QS in the BSAI to the small vessel operators. The coastal communities that rely on the small vessel fleet would benefit by having IFQ in more accessible areas. Further, this action would promote efficiency, because small vessel operators would receive small vessel QS for the areas they normally fish and large vessel operators would receive large vessel QS for the areas they normally fish. Allowing exchanges across catcher vessel length categories would eliminate the need for persons to use multiple vessels of varying lengths to harvest their IFQ allocations. Also, the exchanges would minimize vessel movement caused by IFQ allocations in multiple areas. Finally, this action would not significantly change the overall character of the fleet because (1) CDQ compensation QS accounts for less than 3 percent of the total amount of QS and (2) the net gain or loss in any one catcher vessel length category likely would be insignificant.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of an FMP or an amendment of an FMP and regulations. At this time, NMFS has not determined that either Amendment 32 to the BSAI FMP or Amendment 36 to

the GOA FMP (which these rules would implement) are consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social impacts of the alternatives. The RIR also estimates the total number of small entities affected by this action, and analyzes the economic impact on those small entities. Copies of the RIR can be obtained from NMFS (see **ADDRESSES**).

The analysis in the RIR shows that the economic effects of this rule to the regulated community would be relatively minor. Accordingly, 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 would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This proposed rule has been categorically excluded from further environmental assessment pursuant to NOAA Administrative Order 216-6, section 6.02b.3.(b)(ii)(aa), because the actions pursuant to this proposed rule do not result in a significant change in the original IFQ Program.

This proposed rule will not change the collection of information approved by the Office of Management and Budget (OMB), OMB Control Number 0648-0272, for the Pacific halibut and sablefish IFQ Program and OMB Control Number 0648-0269, for the Western Alaska CDQ Program.

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

List of Subjects in 50 CFR Part 676

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 6, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 676 is proposed to be 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 § 676.21, paragraph (h) is added to read as follows:

§ 676.21 Transfer of QS and IFQ.

* * * * *

(h) *Use of QS across catcher vessel categories.* (1) Any person issued CDQ compensation QS for a catcher vessel in an IFQ regulatory area in which that person does not hold QS may use that CDQ compensation QS on any catcher vessel regardless of catcher vessel category (see § 676.20). After CDQ compensation QS is transferred, the QS is permanently assigned to the specific catcher vessel category designated by the person to whom the QS is transferred.

(2) Paragraph (h)(2) of this section is effective through [insert date 1 year from the effective date of the final rule]. Catcher vessel QS transferred as partial or total consideration for the transfer of CDQ compensation QS may be redesignated into a new catcher vessel category if the CDQ compensation QS is transferred from the person to whom the CDQ compensation QS was originally issued and the QS may have been used on a vessel of any catcher vessel category pursuant to paragraph (h)(1) of this section.

(3) For purposes of paragraph (h) of this section, CDQ compensation QS is quota share issued as partial compensation for Pacific halibut and sablefish harvest privileges foregone due to the CDQ Program, as provided in § 676.24(i).

3. In § 676.22, paragraph (a) is revised to read as follows:

§ 676.22 Limitations on the use of QS and IFQ.

(a) The QS or IFQ specified for one IFQ regulatory area and one vessel category must not be used in a different IFQ regulatory area or vessel category, except as provided in paragraph (i)(3) of this section, or in § 676.21(h)(1).

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4. In § 676.24, paragraph (i)(3) is revised to read as follows:

§ 676.24 Western Alaska Community Development Quota Program.

* * * * *

(i) * * *

(3) Persons initially issued QS for IFQ regulatory areas in which a portion of the TAC is allocated to the CDQ Program will be compensated for halibut and sablefish harvest privileges foregone due to the CDQ Program. Compensation issued to persons in an IFQ regulatory area in which the persons do not hold QS will be issued

as unblocked. Compensation issued to persons in an IFQ regulatory area in which the persons do hold QS will be added to their existing QS in that IFQ regulatory area. The resulting QS amount will be blocked or unblocked according to the criteria found at § 676.20(a). Compensation will be calculated for each non-CDQ area using the following formula:

$$Q_N = (Q_C \times QSP_N \times RATE) / (SUM_{CDQ} - [RATE \times SUM_{TAC}]) \times TAC_{AVE} \times [CDQ_{PCT} - RATE]$$

Where:

Q_N = quota share in non-CDQ area

Q_C = quota share in CDQ area

QSP_N = quota share pool in non-CDQ area (as existing on January 31, 1995)

$RATE$ = SUM_{CDQ} / average of the TAC (1988–1994) for all CDQ and non-CDQ areas

TAC_{AVE} = average of the TAC (1988–1994) for CDQ area

QSP_C = quota share pool in CDQ area (as existing on January 31, 1995)

CDQ_{PCT} = CDQ percentage for CDQ area

SUM_{CDQ} = sum [$TAC_{AVE} \times CDQ_{PCT}$]

SUM_{TAC} = sum [TAC_{AVE}]

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