

**50 CFR Part 679**

[Docket No. 970206022-7022-01; I.D. 012197C]

RIN 0648-AJ35

**Fisheries in the Exclusive Economic Zone Off Alaska; Modify Prior Notice of Landing Requirement**

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

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

**SUMMARY:** NMFS proposes to implement a regulatory amendment to the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries in and off Alaska. This action would redefine the length of time within which a 6-hour prior notice of landing is valid and require that a new prior notice of IFQ landing be submitted to NMFS if the landing originally reported will take place either before or more than 2 hours after the date and time scheduled in the original prior notice of IFQ landing. This action is necessary to reinforce the enforcement rationale underlying the original requirement and improve compliance with IFQ regulations. This action is intended to improve the IFQ Program's ability to manage Pacific halibut and sablefish resources efficiently.

**DATES:** Comments on the proposed rule and Regulatory Impact Review (RIR) must be received by March 24, 1997.

**ADDRESSES:** Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the RIR for this action may be obtained from the same address.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

The fixed gear halibut and sablefish fisheries are managed by the IFQ Program, a limited access system for fixed gear Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fisheries in and off Alaska. The North Pacific Fishery Management Council (Council), under authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act of 1982 (Halibut Act), recommended the IFQ Program, which NMFS implemented in

1995. The IFQ Program was designed to reduce excessive fishing capacity, while maintaining the social and economic character of the fixed gear fishery and the Alaskan coastal communities where many of these fishermen are based.

In the implementing rules for the IFQ Program, NMFS requires that a vessel operator wishing to land IFQ species notify NMFS no less than 6 hours prior to the landing and include in this notification the name and location of the registered buyer to whom the fish will be landed and the anticipated date and time of landing (§ 679.5(l)(1)(i)). The intent of this prior-notice regulation is to provide NMFS with advance notice of a pending landing so that NMFS Enforcement personnel may be present to monitor the landing and ensure compliance with program regulations.

After the first 2 years of the IFQ Program, NMFS has found that this regulation does not adequately serve the enforcement function and proposes to revise it to reflect more clearly the intended purpose of the 6-hour prior notice requirement. The current regulations do not require fishermen to make the landing at the time scheduled in the prior-notice report; they are restricted only from making the landing before 6 hours have elapsed since the prior-notice report was submitted. Moreover, the current regulation requires only an "anticipated date and time of landing" and states that the prior-notice report must be given "no fewer than 6 hours before the landing." The prior notice of landing can be waived at the discretion of clearing officers on a case-by-case basis, but NMFS Enforcement can neither enforce an "anticipated date and time" nor currently require fishermen to land at the time reported in the prior-notice report as long as the landing is not made within 6 hours from the time the prior-notice report is submitted. The current regulation prevents efficient use of enforcement resources, because it fails to require that fishermen land IFQ species at the time scheduled in the prior notice (or within a reasonable time thereof) so that enforcement personnel may be present for the landing.

NMFS proposes a regulatory amendment to modify the requirement by defining the length of time within which a 6-hour prior notice is valid. This action would require that fishermen land IFQ species at the time specified in the prior notice or within 2 hours after the specified time. In the event that a vessel does not make the landing within the 2-hour limit on an original prior-notice report, this action would require the vessel operator to submit a new prior-notice report subject

to all the requirements of the original report. Note also that a vessel operator wishing to make a landing earlier than the time originally scheduled in a prior-notice report must still have a 6-hour margin of time within which to submit a new 6-hour prior notice of landing.

Also, the current regulations require that the prior-notice report include the name and location of the registered buyer to whom a landing will be made. "Location" may be misinterpreted to mean the business address of the registered buyer rather than, as was intended, the actual location of the landing. This action would clarify that the prior notice report must provide NMFS with the location of the landing.

The prior-notice report is crucial to NMFS Enforcement's ability to monitor IFQ landings. The proposed regulatory change would improve a reporting requirement that is necessary to the integrity of the program as a conservation and management tool.

**Classification**

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The requirement for a 6-hour prior notice of IFQ landings has been approved by the Office of Management and Budget (OMB) Control Number 0648-0272. Public reporting burden for this collection of information is estimated to average 12 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through use of automated collection techniques or other forms of information technology. Send comments on this or another aspects of the information collection to NMFS (See ADDRESSES) above, and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with, a collection of information subject to the requirements of the PRA, unless that collection 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 as follows.

This change constitutes a minor regulatory amendment needed to reinforce the intended purpose of the 6-hour prior notice of landing. The current regulations do not require, as was intended, fishermen to make the landing at the time scheduled in the Prior Notice; they are restricted only from making the landing before 6 hours have elapsed since the Prior Notice was given. This action would define the length of time within which a 6-hour prior notice is valid and require that fishermen land IFQ species at the time specified in the prior notice or within 2 hours after the specified time.

The estimate of the reporting burden associated with the prior notice of landing is .2 hours and \$2.00 per response, as described in the Supporting Statement for Collection of Information submitted for OMB authorization of the IFQ Program (OMB control number 0648-0272). NMFS expects instances when a vessel operator inadvertently miscalculates the expected time of landing and thus needs to submit an additional prior notice to be relatively infrequent. Hence, the economic impact of this rule would not be significant.

Therefore, a regulatory flexibility analysis was not prepared.

#### List of Subjects in 50 CFR 679

Fisheries, Reporting and recordkeeping requirements.

Dated: February 13, 1997.

Nancy Foster

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR Part 679 is proposed to be amended as follows:

### **PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

1. The authority citation for part 679 continues to read as follows:

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

2. In § 679.5, paragraph (l)(1)(i)(B) is revised and paragraph (l)(1)(i)(D) is added to read as follows:

#### **§ 679.5 Recordkeeping and reporting.**

\* \* \* \* \*

(l) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) Notification must include: Name of the registered buyer(s) to whom the IFQ halibut or IFQ sablefish will be landed and the location of the landing; vessel identification; estimated weight of the IFQ halibut or IFQ sablefish that will be landed; identification number(s) of the IFQ card(s) that will be used to land the IFQ halibut or IFQ sablefish; and the date and time that the landing will take place.

\* \* \* \* \*

(D) The operator of any vessel wishing to land IFQ halibut or IFQ sablefish before the date and time reported in the prior notice or later than 2 hours after the date and time reported in the prior notice must submit a new prior notice of IFQ landing in compliance with the provisions set forth in paragraphs (l)(1)(i)(A) through (C) of this section.

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### **50 CFR Part 697**

[I.D. 021197A]

RIN 0648-AH58

#### **Atlantic Weakfish Fisheries; Public Hearings**

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

**ACTION:** Notice of public hearings; request for comments.

**SUMMARY:** NMFS will hold three public hearings to receive comments from fishery participants and other members of the public regarding proposed regulations on the harvest and possession of weakfish in the exclusive economic zone of the Atlantic Ocean from Maine through Florida.

**DATES:** Written comments on the proposed rule and supporting documents (Draft Supplemental Environmental Impact Statement and Regulatory Impact Review (DSEIS/RIR)) must be received on or before March 17, 1997. The public hearings will be held during the month of March. See **SUPPLEMENTARY INFORMATION** for dates and times of the public hearings.

**ADDRESSES:** Written comments should be sent to Richard H. Schaefer, Chief, Staff Office of Intergovernmental and Recreational Fisheries (Fx2), National Marine Fisheries Service, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Atlantic Weakfish Comments." The public hearings will be held in New Jersey, Delaware, and North Carolina. See **SUPPLEMENTARY INFORMATION** for the public hearing locations.

**FOR FURTHER INFORMATION CONTACT:** Thomas Meyer/Paul Perra, 301-427-2014.

**SUPPLEMENTARY INFORMATION:** The proposed regulations are necessary to be compatible with rules already implemented by the coastal states through the Atlantic States Marine Fisheries Commission's Amendment 3 to the Interstate Fishery Management Plan for Weakfish, and to ensure the rebuilding of the weakfish stock along the east coast of the Atlantic Ocean.

A complete description of the measures, and the purpose and need for the proposed action, is contained in the proposed rule published on February 14, 1997 (62 FR 6935) and is not repeated here. Copies of the proposed rule may be obtained by writing (see **ADDRESSES**) or calling the contact person (see **FOR FURTHER INFORMATION CONTACT**).

To accommodate people unable to attend a hearing or wishing to provide additional comments, NMFS also solicits written comments on the proposed rule.