

(b) Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: finished furs and fully manufactured fur products may be exported from the U.S. when the State export tags, removed from the pelts used to manufacture the product being exported, are surrendered to the Service before export. Such tags must be removed by cutting the tag straps on the female side next to the locking socket of the tag, so that the locking socket and locking tip remain joined.

Dated: February 21, 1996.

Geroge T. Frampton, Jr.,
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. 960321089-6089-01; I.D. 031396B]

RIN 0648-AG41

Limited Access Management of Federal Fisheries In and Off of Alaska; Allow Processing of Non-Individual Fishing Quota Species

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 33 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 37 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). These amendments are necessary to allow fuller use of the fishery resources in and off of Alaska. This action is intended to allow persons that are authorized to harvest individual fishing quota (IFQ) sablefish based on an annual allocation of IFQ resulting from sablefish quota share (QS) assigned to categories of catcher vessels equal or greater than 60 ft (18.3 m) in length overall to process species other than IFQ halibut and IFQ sablefish.

DATES: Comments must be received by May 17, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 W. 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this action may be obtained from the above 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 IFQ regulatory areas defined in 50 CFR 676.11 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 QS, which represents a transferable harvest privilege, receive an annual allocation of IFQ. These persons are authorized to harvest, within specified limitations, IFQ species. Further information on the implementation of the IFQ Program, and the rationale supporting it, is 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); May 5, 1995 (60 FR 22307); August 8, 1995 (60 FR 40304); August 31, 1995 (60 FR 45378); and November 28, 1995 (60 FR 58528).

Amendments 33 and 37 would allow persons who are authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C to process species other than IFQ halibut and IFQ sablefish. Changes to the regulatory text of the IFQ Program would be necessary to implement this new policy, if it is approved. The definitions of "freezer vessel" and "catcher vessel" would be removed and a definition of "processing" would be added.

References to the removed definitions would be replaced with alternative language. A provision would be added to allow the processing of fish, other than IFQ halibut and IFQ sablefish, onboard vessels on which persons are harvesting IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B and C (catcher vessels that are greater than 60 ft (18.3 m) length overall). A detailed explanation of the proposed changes follows:

Removal of the "Freezer Vessel" and "Catcher Vessel" Definitions

After evaluating the effects that Amendments 33 and 37 would have on the IFQ Program, NMFS determined that the definitions of "freezer vessel" and "catcher vessel" at § 676 subparts B and C are unnecessary and now proposes their removal. NMFS proposes to replace these definitions with the same definition of "processing" found at §§ 672.2 and 675.2.

This proposed definition would be important to the revised specifications of vessel categories at § 676.20(a)(2). Vessel category A, currently described as "freezer vessels of any length," would be changed to vessels of any length authorized to process IFQ species. QS and the resulting IFQ is designated by IFQ species; therefore, a person could only process the IFQ species designated on the IFQ permit (i.e., IFQ halibut or IFQ sablefish). The authorization to process IFQ species is an inherent characteristic of QS assigned to vessel category A. This determination was made at initial issuance based on criteria found at § 676.20(c). The other vessel categories (B, C, and D) found at § 676.20(a)(2) also would not refer to the removed definitions.

Other Changes to the Regulations Due to the Removal of the "Freezer Vessel" and "Catcher Vessel" Definitions

As explained above, § 676.20(a)(2) would no longer refer to freezer vessels or catcher vessels, but rather would describe vessel categories in terms of: (1) Vessel length; (2) specific species designations (i.e., vessel category D for IFQ halibut only); and (3) authorization to process IFQ species. Similarly, any other references in § 676 subparts B and C to freezer vessels or catcher vessels would be removed.

For example, § 676.16(o) would prohibit persons from having processed and unprocessed IFQ species on board a vessel during the same trip. This would replace the current prohibition on operating as a catcher vessel and a freezer vessel during the same trip. This

change, along with the addition of § 676.22(k), would allow a person who is authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C to process fish other than IFQ halibut or IFQ sablefish, a behavior consistent with the Council's intent in proposing Amendments 33 and 37. Currently, a person who is authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C is not allowed to process fish other than IFQ halibut or IFQ sablefish on board the harvesting vessel, because the definition of freezer vessel included the processing of any fish, whether it were IFQ species or not. Other sections in which the specific vessel categories would replace references to freezer vessels and catcher vessels are: §§ 676.21(f)(1) through (4), and (g); and §§ 676.22(i), (i)(1), (i)(2), (j), (j)(1), and (j)(4).

Processing Fish Other Than IFQ Halibut or IFQ Sablefish

A new paragraph, § 676.22(k), would be added to allow processing of fish, other than IFQ halibut or IFQ sablefish, on board the harvesting vessel by persons who are authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C. Without this proposed change, fish, other than IFQ halibut or IFQ sablefish, could not be processed on board the harvesting vessel if, along with that fish, IFQ sablefish were harvested by a person who is authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B and C. The current prohibition on processing fish, other than IFQ halibut or IFQ sablefish, on category B or C vessels has resulted in the unanticipated waste of fish caught incidentally with IFQ sablefish because sablefish can be preserved longer on ice than some incidentally caught fish (e.g., Pacific cod). The longer "shelf life" of fresh sablefish allows a typical sablefish longline trip to exceed the time period in which fish other than IFQ halibut or IFQ sablefish maintains sufficient quality to market as fresh fish. This often results in the discard of some or all incidentally caught fish. Also, persons are required to retain Pacific cod and rockfish caught incidentally to IFQ sablefish. This forces persons who are authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B and C to keep Pacific cod and rockfish caught incidentally

with IFQ sablefish, even though the value of the Pacific cod and rockfish is diminished during a long sablefish trip. The Council intended that Amendments 33 and 37 address the lost revenue that occurs because fish other than IFQ halibut and IFQ sablefish are discarded, or if not discarded, landed in poor condition, due to the current prohibition on processing fish, other than IFQ halibut and IFQ sablefish.

Section 676.22(i)(3) would be unnecessary with the addition of § 676.22(k) and the removal of the definitions of "freezer vessel" and "catcher vessel." Furthermore, some of the provisions in § 676.22(i)(3) were contrary to the purposes of Amendments 33 and 37. For example, a person could not harvest IFQ sablefish with IFQ resulting from sablefish QS assigned to vessel categories B or C if "frozen or otherwise processed fish products" were on the vessel, whether the frozen or otherwise processed fish was IFQ halibut or IFQ sablefish, or fish other than those species. The intent of the proposed action is to allow persons to harvest IFQ sablefish with IFQ resulting from sablefish QS assigned to vessel categories B or C, even if frozen or otherwise processed fish other than IFQ halibut or IFQ sablefish are on board the harvesting vessel.

The authorization to process fish, other than IFQ halibut or IFQ sablefish, would not extend to persons who are authorized to harvest IFQ halibut based on an annual allocation of IFQ resulting from halibut QS assigned to vessel categories B, C, or D. The Council declined to extend the IFQ sablefish exemption to IFQ halibut due to the socio-economic differences between the fisheries. The halibut fishery characteristically is prosecuted by local vessels that do not have on-board processing capabilities. The Council does not intend to change this characteristic of the halibut fishery. Also, not extending the authorization to process fish other than IFQ sablefish and IFQ halibut to persons that are authorized to harvest IFQ halibut based on an annual allocation of IFQ resulting from halibut QS assigned to vessel categories B, C, or D is consistent with one of the objectives of the IFQ Program, which is to maintain a diverse fleet where all segments, and the social structures associated with those segments, continue to exist. The prohibition on processing on board the harvesting vessel by persons harvesting IFQ species with IFQ resulting from QS assigned to specific vessel categories is one method of accomplishing that objective. The Council expressed concern that if the owners of large,

industrial-type vessels that process their catch could harvest IFQ species with IFQ resulting from QS assigned to vessel categories B, C, or D while processed fish is on board, these owners would acquire the majority of the "catcher vessel" QS. The result would be an increase in harvesting of IFQ species on large, industrial-type vessels that process their catch and a decrease in harvesting of IFQ species on small vessels that do not have processing capabilities. These small vessels that do not have processing capabilities are more likely to make landings at local coastal communities. The Council determined that phasing out small vessels that do not have processing capabilities, and which would not be able to compete with the large, industrial-type vessels that process their catch for available IFQ, would have a detrimental socio-economic impact on coastal communities. This is especially true for halibut IFQ. Many coastal communities rely on the delivery of halibut harvested by persons operating small vessels that do not have processing capabilities as a source of revenue.

Classification

An EA/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 EA/RIR estimates the total number of small entities affected by this action, and analyzes the economic impact on those small entities. Based on the analysis, it was determined that this proposed rule does not have a significant economic impact on a substantial number of small entities, and the Assistant General Counsel for Legislation and Regulation of the Department of Commerce so certified to the Chief Counsel for Advocacy of the Small Business Administration. The EA/RIR also supports the finding of no significant impact on the human environment by this action. Copies of the EA/RIR can be obtained from NMFS (see **ADDRESSES**).

This proposed rule will not change the collection of information approved by the Office of Management and Budget, OMB Control Number 0648-0272, for the Pacific halibut and sablefish IFQ 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: March 27, 1996.

Charles Karnella,

Acting 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. Section 676.11 is amended by removing the definitions of "Catcher vessel" and "Freezer vessel" and by adding the definition of "Processing", in alphabetical order, to read as follows:

§ 676.11 Definitions.

* * * * *

Processing, or to process, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, or rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

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3. In § 676.16 paragraph (o) is revised to read as follows:

§ 676.16 General prohibitions.

* * * * *

(o) Have processed and unprocessed IFQ species on board a vessel during the same trip except when fishing exclusively with IFQ derived from vessel category A quota shares.

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4. In § 676.20 paragraph (a)(2) is revised to read as follows:

§ 676.20 Individual allocations.

* * * * *

(a) * * *

(2) *Vessel categories*. Quota shares assigned to vessel categories include:

(i) Category A quota share, which authorizes an IFQ cardholder to catch and process IFQ species on a vessel of any length;

(ii) Category B quota share, which authorizes an IFQ cardholder to catch IFQ species on a vessel greater than 60 ft (18.3 m) in length overall;

(iii) Category C quota share, which authorizes an IFQ cardholder to catch IFQ sablefish on a vessel less than or equal to 60 ft (18.3 m) in length overall, or which authorizes an IFQ cardholder to catch IFQ halibut on a vessel greater than 35 ft (10.7 m) but less than or equal to 60 ft (18.3 m) in length overall; and

(iv) Category D quota share, which authorizes an IFQ cardholder to catch IFQ halibut on a vessel less than or equal to 35 ft (10.7 m) in length overall.

* * * * *

5. In § 676.21 paragraphs (f) and (g) are revised to read as follows:

§ 676.21 Transfer of QS and IFQ.

* * * * *

(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 that were initially assigned QS assigned to vessel categories B, C, or D, and meet the other requirements in this section may receive QS assigned to vessel categories B, C, or D.

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

(3) Individuals who were initially issued QS assigned to vessel categories B, C, or D may transfer that QS to a corporation that is solely owned by the same individual. Such transfers of QS assigned to vessel categories B, C, or D in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish are governed by the use provisions of § 676.22(i); the use provisions pertaining to corporations at § 676.22(j) do not apply in this situation.

(4) The Regional Director will not approve an Application for Transfer of QS assigned to vessel categories B, C, or D subject to a lease or any other condition of repossession or resale by the person transferring QS, except as provided in paragraph (g) of this section, or by court order, operation of law, or as part of a security agreement. The Regional Director may request a copy of the sales contract or other terms and conditions of transfer between two persons as supplementary information to the transfer application.

(g) *Leasing QS (applicable until January 2, 1998)*. A person may not use IFQ resulting from a QS lease for harvesting halibut or sablefish until an Application for Transfer complying with the requirements of paragraph (b) of this section and the lease agreement are approved by the Regional Director. A person may lease no more than 10 percent of that person's total QS 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. After approving the Application for Transfer, the Regional Director will change any IFQ accounts affected by an approved QS lease and

issue all necessary IFQ permits. QS leases must comply with all transfer requirements specified in this section. All leases expire on December 31 of the calendar year for which they are approved.

* * * * *

6. In § 676.22 paragraph (i), paragraph (j) introductory text, paragraphs (j)(1) and (j)(4) are revised, and paragraph (k) is added to read as follows:

§ 676.22 Limitations on use of QS and IFQ.

* * * * *

(i) *Use of IFQ resulting from QS assigned to vessel categories B, C, or D by individuals*. In addition to the requirements of paragraph (c) of this section, IFQ cards issued for IFQ resulting from QS assigned to vessel categories B, C, or D must be used only by the individual who holds the QS from which the associated IFQ is derived, except as provided in paragraph (i)(1) of this section.

(1) An individual who receives an initial allocation of QS assigned to vessel categories B, C, or D does not have to be aboard and sign IFQ landing reports if that individual owns the vessel on which IFQ sablefish or halibut are harvested, and is represented on the vessel by a master employed by the individual who received the initial allocation of QS.

(2) The exemption provided in paragraph (i)(1) of this section does not apply to individuals who receive an initial allocation of QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish QS in the IFQ regulatory area east of 140° W. long., and this exemption is not transferrable.

(j) *Use of IFQ resulting from QS assigned to vessel categories B, C, or D by corporations and partnerships*. A corporation or partnership that receives an initial allocation of QS assigned to vessel categories B, C, or D may use the IFQ resulting from that QS and any additional QS acquired within the limitations of this section provided the corporation or partnership owns the vessel on which its IFQ is used, and it is represented on the vessel by a master employed by the corporation or partnership that received the initial allocation of QS. This provision is not transferrable and does not apply to QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish in the IFQ regulatory area east of 140° W. long. that is transferred to a corporation or partnership. Such transfers of additional QS within these areas must be to an individual pursuant to § 676.21(b) and be used pursuant to paragraphs (c) and (i) of this section.

(1) A corporation or partnership, except for a publicly-held corporation, that receives an initial allocation of QS assigned to vessel categories B, C, or D loses the exemption provided under paragraph (j) of this section on the effective date of a change in the corporation or partnership from that which existed at the time of initial allocation.

* * * * *

(4) QS assigned to vessel categories B, C, or D and IFQ resulting from that QS

held in the name of a corporation or partnership that changes, as defined in this paragraph (j), must be transferred to an individual, as prescribed in § 676.21 before it may be used at any time after the effective date of the change.

(k) *Processing of fish other than IFQ halibut and IFQ sablefish.* Fish other than IFQ halibut or IFQ sablefish may be processed on a vessel on which persons:

(1) Are authorized to harvest IFQ halibut or IFQ sablefish based on

allocations of IFQ resulting from QS assigned to vessel category A; or

(2) Are authorized to harvest IFQ sablefish based on allocations of IFQ resulting from QS assigned to vessel categories B or C unless any person aboard the vessel is authorized to harvest IFQ halibut based on allocations of IFQ resulting from QS assigned to vessel categories B, C, or D.

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