

Fishery Conservation and Management

§ 679.50

proving the payment is correct, the Regional Administrator will send the IFQ permit holder or RQE an IAD indicating that the IFQ permit holder or RQE did not meet the burden of proof to change the IFQ fee liability as calculated by the Regional Administrator based upon the IFQ standard ex-vessel value. The IAD will set out the facts and indicate the deficiencies in the documentation submitted by the IFQ permit holder or RQE. An IFQ permit holder or RQE who receives an IAD may appeal the IAD, as described in paragraph (h) of this section.

(3) If the permit holder fails to file an appeal of the IAD pursuant to 15 CFR part 906, the IAD will become the final agency action.

(4) If the IAD is appealed and the final agency action is a determination that additional sums are due from the IFQ permit holder or RQE, the IFQ permit holder or RQE must pay any IFQ fee amount determined to be due not later than 30 days from the issuance of the final agency action.

(5) Upon final agency action determining that an IFQ permit holder or RQE has not paid his or her IFQ fee liability, any IFQ fishing permit held by the IFQ permit holder or RQE is not valid until all IFQ fee liabilities are paid.

(6) If payment is not received on or before the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(g) *Over payment.* Upon issuance of final agency action, any amount submitted to NMFS in excess of the IFQ fee liability determined to be due by the final agency action will be returned to the IFQ permit holder or RQE unless the IFQ permit holder or RQE requests the agency to credit the excess amount against the IFQ permit holder's or RQE's future IFQ fee liability.

(h) *Appeals and requests for reconsideration.* An IFQ permit holder who receives an IAD may either appeal the IAD pursuant to 15 CFR part 906 or request reconsideration. Within 60 days from the date of issuance of the IAD, the Regional Administrator may undertake a reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted

or the Regional Administrator initiates a reconsideration, the 60-day period for appeal under 15 CFR part 906 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may undertake only one reconsideration of the IAD, if any. If an IFQ permit holder fails to file an appeal of the IAD pursuant to 15 CFR part 906, the IAD will become the final agency action. In any appeal or reconsideration of an IAD made under this section, an IFQ permit holder has the burden of proving his or her claim.

(i) *Annual report.* NMFS will publish annually a report describing the status of the IFQ Cost Recovery Program.

[65 FR 14924, Mar. 20, 2000, as amended at 67 FR 4133, Jan. 28, 2002; 71 FR 44232, Aug. 4, 2006; 76 FR 40633, July 11, 2011; 78 FR 75893, Dec. 12, 2013; 81 FR 23649, Apr. 22, 2016; 83 FR 47833, Sept. 21, 2018]

Subpart E—North Pacific Observer Program

SOURCE: 61 FR 56431, Nov. 1, 1996, unless otherwise noted.

§ 679.50 Applicability.

(a) *General.* (1) The operator of a vessel designated or required to be designated on a Federal fisheries permit (FFP) under § 679.4(b); the operator of a processor designated or required to be designated on a Federal processor permit (FPP) under § 679.4(f)(1) or a Registered Buyer permit under § 679.4(d)(3); and the operator of a vessel used to harvest IFQ halibut, CDQ halibut, or IFQ sablefish must comply with this subpart. The owner of a vessel or a shoreside processor must ensure that the operator or manager complies with this subpart.

(2) *Exceptions.* A catcher vessel is not subject to the requirements of this subpart when delivering unsorted codends to a mothership.

(3) For purposes of this subpart, halibut means CDQ and IFQ halibut.

(b) [Reserved]

[77 FR 70091, Nov. 21, 2012, as amended at 83 FR 30532, June 29, 2018]