

§ 675.21(c)(1)(iii), that the 1995 bycatch mortality allowance of Pacific halibut apportioned to the trawl Greenland turbot/arrowtooth flounder/sablefish fishery category in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for aggregate species in the Greenland turbot/arrowtooth flounder/sablefish fishery category by vessels using trawl gear in the BSAI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

#### Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

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

Dated: May 1, 1995.

**Richard W. Surdi,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

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#### 50 CFR Part 676

[Docket No. 950223056-5109-02; I.D. 121594B]

RIN 0648-AG45

#### 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:** Final rule.

**SUMMARY:** NMFS issues a final rule amending 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 action is necessary to further refine the IFQ Program and is intended to improve the ability of NMFS to manage the halibut and sablefish fisheries.

**EFFECTIVE DATE:** June 1, 1995.

**ADDRESSES:** Copies of the final rule and the Regulatory Impact Review (RIR) for this action may be obtained from: 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.

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

**SUPPLEMENTARY INFORMATION:** The IFQ Program is a regulatory regime designed to promote the conservation and

management of the fixed gear halibut and sablefish fisheries in and off of Alaska, and to further the objectives of the Magnuson Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Further information on the implementation of this management program, and the rationale supporting it, is contained in the preamble to the final rule implementing the IFQ program published in the **Federal Register** on November 9, 1993 (58 FR 59375).

This action amends various portions of the regulations implementing the IFQ Program and is designed to make the IFQ Program more responsive to the conservation and management goals for the Nation's fishery resources. The following list gives a brief description of the regulatory provisions added or amended. Further information on these changes is contained in the preamble to the proposed rule published in the **Federal Register** on January 12, 1995 (60 FR 2935).

1. Section 676.11: (a) A definition of "clearing officer" is added to mean a NMFS special agent, a NMFS fishery enforcement officer, or a NMFS enforcement aide who is authorized to provide vessel clearances and perform other duties as described in part 676; and (b) the definition of "trip" is changed to clarify that a vessel operator cannot begin a new trip merely by crossing regulatory area boundaries.

2. Section 676.14(a) requires a vessel operator to provide the Alaska Region, NMFS, with the name and location of the registered buyer(s) to whom the IFQ species will be landed, the vessel identification, the estimated weight of IFQ species to be landed, the identification number(s) of the IFQ card(s) that will be used to make the landing, and the anticipated date and time of landing. This information must be reported at least 6 hours before landing IFQ species.

3. Section 676.14(b)(2) is revised to allow persons authorized by the International Pacific Halibut Commission to sample all IFQ halibut landings for biological information. Also, this revision authorizes clearing officers, authorized officers, and observers to verify, inspect, and sample all IFQ landings and landings made by those vessels, and to board vessels making IFQ landings.

4. Section 676.17(a) requires a vessel operator obtaining prelanding written clearance at a port in Alaska to provide the weight of IFQ species on board.

5. Section 676.17(a)(1) requires a vessel operator obtaining a prelanding written clearance at a port in Alaska to obtain that clearance prior to departing

the waters of the exclusive economic zone (EEZ) adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska.

6. Section 676.17(a)(2) requires a vessel operator obtaining a prelanding written clearance at a port in a state other than Alaska to provide a departure report to NMFS, Alaska Region, prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska. The departure report must include the weight of the IFQ species on board and the intended date and time the vessel will obtain prelanding vessel clearance.

7. Section 676.17(a)(9) designates geographic locations of the primary ports where a vessel operator can obtain vessel clearance from a clearing officer. These geographical locations also provide a vessel operator with notification of the approximate locations where boardings may occur if deemed necessary by a clearing officer.

8. Section 676.17(a)(3) requires a vessel operator to obtain vessel clearance from a clearing officer located at a primary port in the State of Alaska before that vessel operator lands IFQ species in a foreign port.

9. Section 676.17(a)(4) designates Port Hardy, Prince Rupert, and Vancouver, British Columbia, as the only Canadian ports where IFQ species may be landed.

10. Section 676.17(a)(5) requires a vessel operator having any IFQ species on board to land and weigh all species on board at the same time and place as the first landing of any species on board. For example, if a vessel had Pacific halibut (IFQ species), sablefish (IFQ species), and Pacific cod (non-IFQ species) on board, and the vessel operator wanted to offload the Pacific cod to a tender, the vessel operator also would be required to offload and weigh the Pacific halibut and sablefish.

11. Section 676.17(b) describes the 10 percent adjustment policy for a person who harvests or lands IFQ species in an amount greater than the amount available in the person's annual IFQ account. A person that harvests or lands an amount that is greater than the amount available in the person's annual IFQ account will have the account adjusted in the year following a determination that the account was exceeded, if the amount exceeding the account is not greater than 10 percent of the amount of IFQ available in the person's annual IFQ account at the time of landing. The adjustment would be a deduction of the amount of IFQ

harvested or landed in excess of the annual IFQ account from that account in the year following a determination that the account was exceeded. The adjustment would apply to whomever the affected IFQ is allocated in the year following a determination. The 10 percent adjustment policy, and the underage provision described below, are intended to provide persons who harvest IFQ species with a cushion around the exact amount of IFQ pounds available. NMFS anticipates that the average harvest over multiple seasons will be close to the amount available in a person's IFQ account. This adjustment policy should not be mistaken for an opportunity to routinely exceed an annual IFQ account or to exceed the account in an amount greater than that allowed under the adjustment policy. Such behavior would be subject to an enforcement action.

12. Section 676.17(c) allows the addition of IFQ underages to a person's IFQ account for the following fishing year. Underages of up to 10 percent of a person's annual IFQ account for the current fishing year would be added to that person's annual IFQ account for the following fishing year. Any amount of the underage exceeding 10 percent would expire at the end of the current fishing year.

13. Section 676.22(i)(3) clarifies that vessel category lengths for vessels using catcher vessel IFQ specified at § 676.20(a)(2) also apply to freezer vessels using catcher vessel IFQ. For example, a person may only use catcher vessel IFQ Category "C" on board a freezer vessel if that freezer vessel's length overall (LOA) is consistent with LOA categories in § 676.20(a)(2)(iii) and the frozen product requirements in § 676.22(i)(3).

14. Section 676.22(c)(3)(i) references the appropriate product recovery rates for sablefish (Table 1 to § 672.20) deductions made to a person's annual IFQ account.

15. Section 676.22(c)(3)(ii) provides the appropriate conversion factors for Pacific halibut deductions made to a person's annual IFQ account.

16. Section 676.24(j)(4) changes the last word in the first sentence of § 676.24(j)(4) from "section" to "part."

No public comments on the proposed action were received by NMFS.

#### Changes in the Final Rule From the Proposed Rule

1. The proposed definitions of "catcher vessel" and "freezer vessel" are not adopted. NMFS proposed to change the definitions of "catcher vessel" and "freezer vessel" in § 676.11 so that a freezer vessel would be a vessel

that was capable of processing some or all of its catch, rather than a vessel used to process some or all of its catch. NMFS decided that this definition change was confusing and that further analysis needed to be performed before any change to these definitions were implemented.

2. Section 676.13 is not changed as proposed. Section 676.13(a)(2)(ii) would have been removed and paragraph (a)(2)(iii) would have been redesignated as paragraph (a)(2)(ii). Section 676.13(a)(2) also would have been revised to reflect this change. This change was proposed to avoid the implication that a registered buyer permit would be needed to harvest and land IFQ species at a shore-based processor located in the State of Alaska, but not located in a sablefish IFQ regulatory area. After further analysis, NMFS decided to leave the regulatory text in its original form. The phrase, "[o]utside of an IFQ regulatory area," as used in § 676.13(a)(2)(ii), means any of the IFQ regulatory areas defined in § 676.11. This would eliminate the anomalous result of requiring a person who lands at a shore-based processor in the State of Alaska, but not in a sablefish regulatory area, to hold a registered buyer permit.

3. The landing notification requirements in § 676.14(a) of the final rule includes vessel identification. This requirement, like the other proposed requirements adopted in this final rule, will assist in ensuring that all IFQ landings are properly recorded. Appropriate vessel identification is the name of the vessel, or alternatively, if the vessel does not have a name, some identifying characteristics that can be used by NMFS Enforcement to recognize the vessel. The vessel identification requirement was analyzed in the RIR for the proposed rule; however, the requirement inadvertently was not included in the proposed regulatory text.

4. Section 676.14(e) is revised to clarify that each instance of transshipment must be authorized by a clearing officer. This was the original intent of the change in the proposed rule; however, the text in the proposed rule implied that only the location needed to be authorized by a clearing officer.

5. Section 676.17(b) is changed and § 676.17(b)(1) and (b)(2) are added to reflect a change from the proposed method of adjusting an annual IFQ account for IFQ species harvested in an amount greater than the amount available in the IFQ account. NMFS determined that the new method of adjustment (see explanation in number

12 of the brief descriptions of the regulation) more accurately reflected the intent of the North Pacific Fishery Management Council for adjusting the annual IFQ account. Also, NMFS determined that it was no longer necessary to include the forfeiture provision or the 400 lb (181.4 kg) exemption to the forfeiture provision in the 10 percent adjustment policy.

6. Proposed § 676.17(a) provided that vessels obtaining prelanding written clearance at a port in Alaska must obtain that clearance prior to departing waters in or adjacent to the State of Alaska. Also, it provided that vessels obtaining clearance at the port in Washington or another state must report to NMFS, Alaska Region, prior to departing waters in or adjacent to the State of Alaska. To clarify this reference, waters in, or adjacent to, the State of Alaska refers to all waters under the jurisdiction of the State of Alaska; all waters of the EEZ, as defined at 50 CFR 620.2, that is adjacent to waters under the jurisdiction of the State of Alaska; and the maritime area of the United States, as defined at 50 CFR 301.2, that is adjacent to waters under the jurisdiction of the State of Alaska. Language has been added to new § 676.17(a) (1) and (2) consistent with this interpretation.

7. Section 676.17(a)(4) is changed to clarify that IFQ landings in Canada may only occur at the ports of Port Hardy, Prince Rupert, or Vancouver, British Columbia. The language in the proposed rule was vague when it referred to what could be landed (i.e., no person shall land IFQ species) and where it could be landed (i.e., in Canada at a port other than the ports of).

#### Classification

An RIR was prepared for this action. An analysis was included in the RIR, which described and estimated the total number of small entities affected, and which analyzed the economic impact on those small entities of the vessel clearances, Canadian port designations, and offloading requirements. It is estimated that less than 20 percent of the 7,200 vessel/owners involved in the IFQ Program will be affected by these changes, which may increase compliance costs. Based on the analysis, it was determined that this action would not have a significant economic impact on a substantial number of small entities. Copies of the RIR can be obtained from NMFS (see ADDRESSES).

This rule has been categorically excluded from further environmental assessment pursuant to section 6.02b.3.(b)(ii) of NAO 216-6.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. Public reporting burden for each year is estimated to average 6 minutes per response for notification of IFQ landings, 6 minutes per response for advance notification of transshipment, and 5 minutes per response for prelanding clearance. All reporting burden estimates include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The collection of this information has been approved by the Office of Management and Budget, 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 rule has been determined to be not significant for purposes of E.O. 12866.

**List of Subjects in 50 CFR Part 676**

Fisheries, Reporting and recordkeeping requirements.

Dated: April 28, 1995.

**Gary Matlock,**

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 676 is 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 revising the definition of "Trip" and by adding the definition of "Clearing officer" to read as follows:

**§ 676.11 Definitions.**

\* \* \* \* \*

*Clearing officer* means a NMFS special agent, a NMFS fishery enforcement officer, or a NMFS enforcement aide who performs the function of clearing vessels at one of the primary ports listed in § 676.17(a)(4).

\* \* \* \* \*

*Trip*, as used in this part, means the period beginning when a vessel operator commences harvesting IFQ species and ending when the vessel operator lands any species.

\* \* \* \* \*

3. Section 676.13 is amended by revising paragraphs (f)(1), and (f)(2) to read as follows:

**§ 676.13 Permits.**

\* \* \* \* \*

(f) \* \* \* (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 who is issued an IFQ card must remain aboard the vessel used to harvest IFQ halibut or IFQ sablefish with that card until all such fish are landed, and 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.

(2) A legible copy of the registered buyer permit must be present at the location of an IFQ landing, and must be made available for inspection on request of any authorized officer or clearing officer.

\* \* \* \* \*

4. Section 676.14 is amended by revising paragraphs (a), (b)(1), (b)(2), (e), and (f) to read as follows:

**§ 676.14 Recordkeeping and reporting.**

\* \* \* \* \*

(a) *Prior notice of IFQ landings.* The operator of any vessel that makes 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. Such notification of IFQ landings 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 the landing.

(b) \* \* \*

(1) IFQ landings may be made only between the hours of 0600 and 1800 Alaska local time unless permission to land at a different time is granted in advance by a clearing officer. An IFQ landing may continue after this time period, if it was started during the period.

(2) All vessels making IFQ landings, and the landings made by those vessels, are subject to verification, inspection, and sampling by authorized officers, clearing officers, and observers. Also, all IFQ halibut landings are subject to

sampling for biological information by persons authorized by the IPHC.

\* \* \* \* \*

(e) *Transshipment.* No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization must be obtained for each instance of transshipment. An IFQ transshipper's request for authorization to transship must be received by a clearance officer at least 24 hours before the transshipment is intended to occur.

(f) A copy of all reports and receipts required by this section must be retained by registered buyers and be available for inspection by an authorized officer or a clearing officer for a period of 3 years.

5. Section 676.17 is amended by redesignating paragraphs (a)(1) through (a)(4) as paragraphs (a)(6) through (a)(9); by adding new paragraphs (a)(1) through (a)(5), and (c); and by revising paragraphs (a) introductory text, newly redesignated paragraph (a)(9), (b), and (c) to read as follows:

**§ 676.17 Facilitation of enforcement and monitoring.**

\* \* \* \* \*

(a) *Vessel clearance.* Any person who makes an IFQ landing at any location other than in an IFQ regulatory area or in the State of Alaska must obtain prelanding written clearance of the vessel and provide the weight of IFQ halibut or IFQ sablefish on board to the clearing officer.

(1) Vessels obtaining prelanding written clearance at a port in the State of Alaska must obtain that clearance prior to departing the waters of the exclusive economic zone (EEZ) adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska.

(2) Vessels obtaining prelanding written clearance at a port in the State of Washington or another state must provide a departure report to NMFS, Alaska Region, prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska. The departure report must include the weight of the IFQ halibut or IFQ sablefish on board and the intended date and time the vessel will obtain prelanding written clearance at the port in the State of Washington or another state.

(3) A vessel operator who lands IFQ species in a foreign port must first obtain vessel clearance from a clearing officer located at a primary port in the State of Alaska.

(4) No person shall make an IFQ landing in Canada other than at the ports of Port Hardy, Prince Rupert, or Vancouver, British Columbia.

(5) A vessel operator must land and report all IFQ species on board at the same time and place as the first landing of any species harvested during a fishing trip.

\* \* \* \*

(9) Unless specifically authorized on a case-by-case basis, vessel clearances will be issued only by clearing officers at the following primary ports:

Port	North latitude	West longitude
Akutan .....	54°08'05"	165°46'20"
Bellingham .....	48°45'04"	122°30'02"
Cordova .....	60°33'00"	145°45'00"
Craig .....	55°28'30"	133°09'00"
Dutch Harbor/ Unalaska.	53°53'27"	166°32'05"
Excursion Inlet .	58°25'00"	135°26'30"
Homer .....	59°38'40"	151°33'00"
Ketchikan .....	55°20'30"	131°38'45"
King Cove .....	55°03'20"	162°19'00"
Kodiak .....	57°47'20"	152°24'10"
Pelican .....	57°57'30"	136°13'30"
Petersburg .....	56°48'10"	132°58'00"
St. Paul .....	57°07'20"	170°16'30"
Sand Point .....	55°20'15"	160°30'00"
Seward .....	60°06'30"	149°26'30"
Sitka .....	57°03'	135°20'
Yakutat .....	59°33'	139°44'

(b) *Ten Percent Adjustment Policy.* A person's annual IFQ account will be adjusted in the year following a determination that the person harvested or landed IFQ species in an amount greater than the amount available in the person's annual IFQ account and if the amount greater than the amount available does not exceed 10 percent of the amount available in the person's annual IFQ account at the time of

landing. The adjustment would be a deduction of the amount of IFQ species harvested or landed that was determined to exceed the amount available in the person's annual IFQ account, and will apply to any person to whom the affected IFQ is allocated in the year following a determination.

(c) *Underages.* Underages of up to 10 percent of a person's total annual IFQ account for a current fishing year will be added to that person's annual IFQ account in the year following determination of the underage. This adjustment to the annual IFQ allocation will be specific to IFQ species, IFQ regulatory area, and vessel category for which an IFQ is calculated, and will apply to any person to whom the affected IFQ is allocated in the year following determination of an underage.

6. Section 676.22 is amended by adding paragraphs (c)(3)(i) and (c)(3)(ii), and by revising paragraph (i)(3) to read as follows:

**§ 676.22 Limitations on the use of QS and IFQ.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) The amount of sablefish to be reported to NMFS for debit from an IFQ account will be the round-weight equivalent determined by dividing the initial accurate scale weight of the sablefish product obtained at time of landing by the standard product recovery rates for sablefish in Table 1 to § 672.20 of this chapter.

(ii) The amount of halibut to be reported to NMFS for debit from an IFQ account will be the gutted, head-off weight determined by multiplying the initial accurate scale weight of the halibut obtained at the time of landing by the following conversion factors:

Product code	Product description	Conversion factor
01	Whole fish .....	0.75
04	Gutted, head on .....	0.90
05	Gutted, head off .....	1.00

\* \* \* \* \*

(i) \* \* \*

(3) Catcher vessel IFQ may be used on a freezer vessel, provided that the length of the freezer vessel using the catcher vessel IFQ is consistent with the vessel category of the catcher vessel IFQ, as specified at § 676.20(a)(2)(ii) through (iv), and no frozen or otherwise processed fish products are on board at any time during a fishing trip on which catcher vessel IFQ is being used. A vessel using catcher vessel IFQ may not land any IFQ species as frozen or otherwise processed product. Processing of fish on the same vessel that harvested those fish using catcher vessel IFQ is prohibited.

\* \* \* \* \*

7. Section 676.24 is amended by revising paragraph (j)(4) to read as follows:

**§ 676.24 Western Alaska Community Development Quota Program.**

\* \* \* \* \*

(j) \* \* \*

(4) No person may alter, erase, or mutilate a CDQ permit, card, registered buyer permit, or any valid and current permit or document issued under this part. Any such permit, card, or document that has been intentionally altered, erased, or mutilated will be invalid.

\* \* \* \* \*

[FR Doc. 95-11070 Filed 5-2-95; 9:12 am]

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