

Classification

This action is taken under § 675.20(e)(1)(iii), (e)(2)(iii) and (e)(5) and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior public notice and comment on the inseason adjustment. Immediate effectiveness is necessary to prevent foregone revenue to the Pacific cod hook-and-line fishery, which would otherwise be prevented from conducting operations.

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

Dated: November 9, 1995.

Richard W. Surdi,

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

[FR Doc. 95-28248 Filed 11-9-95; 4:13 pm]

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50 CFR Part 676

[Docket No. 940683-4277; I.D. 110695C]

RIN 0648-AE79

Limited Access Management of Federal Fisheries In and Off of Alaska; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule that was published Friday, October 7, 1994. This document republishes the regulatory text describing a "qualified person" under the Individual Fishing Quota (IFQ) program for the fixed gear fishery for Pacific halibut and sablefish in and off of Alaska.

EFFECTIVE DATE: November 7, 1994.

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

SUPPLEMENTARY INFORMATION:

Under § 676.20, initial allocation of Pacific halibut and sablefish quota share (QS) is assigned to qualified persons based upon specified criteria (e.g., qualifying years, evidence of vessel ownership, evidence of vessel lease, evidence of legal landings, vessel categories). These criteria were published in the final rule implementing the IFQ system for Pacific halibut and sablefish, Amendment 15 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 20 to the FMP for

Groundfish of the Gulf of Alaska (GOA), and appear at 58 FR 59406 (November 9, 1993).

The IFQ system was revised with the implementation of a Modified Block Proposal to clarify the transfer process for QS and to prevent excessive consolidation in the Pacific halibut and sablefish fisheries, Amendment 31 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 35 to the FMP for Groundfish of the Gulf of Alaska. The proposed rule was published June 28, 1994 (59 FR 33272) and the final rule was published October 7, 1994 (59 FR 51135). Neither Amendment 31 or 35 indicated that the criteria for a qualified person or the vessel categories under the original IFQ program were to be revised. Although there is some confusion in the proposed and final rule implementing Amendments 31 and 35, the preamble to the final rule (59 FR 51136, October 7, 1994) explicitly states:

1. The amendatory language to § 676.20 in the proposed rule was numbered in such a manner that existing paragraphs (a)(1) *Qualified persons* and (a)(2) *Vessel categories* would have been deleted. This was a technical oversight. Paragraphs (a)(1) and (a)(2) will remain as published on November 9, 1993 (59 FR 59375) and will not be amended by this final rule.

NMFS interpreted the final rule as stated above and circulated copies of the regulations with paragraphs (a)(1) and (a)(2) as published at 58 FR 59375 (November 9, 1993). Notwithstanding the explicit statement in the preamble and NMFS' interpretation of this provision, the amending instruction for § 678.20 was not clear and could be construed as deleting paragraphs (a)(1) and (a)(2). See 59 FR 51138 (October 7, 1995). Consequently, NMFS is issuing this correction and republishing the criteria of § 676.20(a)(1) and (a)(2).

List of Subjects in 50 CFR Part 676

Fisheries, Reporting and recordkeeping requirements.

Dated: November 8, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

Accordingly, 50 CFR part 676 is amended by making the following correction:

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 § 676.20, paragraphs (a)(1) and (a)(2) are added to read as follows:

§ 676.20 Individual allocations.

(a) * * *

(1) *Qualified person.* As used in this section, a "qualified person" means a "person," as defined in § 676.11 of this part, that owned a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year. A person is a qualified person also if (s)he leased a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year. A person who owns a vessel cannot be a qualified person based on the legal fixed gear landings of halibut or sablefish made by a person who leased the vessel for the duration of the lease. Qualified persons, or their successors-in-interest, must exist at the time of their application for QS. A former partner of a dissolved partnership or a former shareholder of a dissolved corporation who would otherwise qualify as a person may apply for QS in proportion to his interest in the dissolved partnership or corporation. Sablefish harvested within Prince William Sound, or under a State of Alaska limited entry program, will not be considered in determining whether a person is a qualified person.

(i) A QS qualifying year is 1988, 1989, or 1990.

(ii) Evidence of vessel ownership shall be limited to the following documents, in order of priority:

(A) For vessels required to be documented under the laws of the United States, the U.S. Coast Guard abstract of title issued in respect of that vessel;

(B) A certificate of registration that is determinative as to vessel ownership; and

(C) A bill of sale.

(iii) Conclusive evidence of a vessel lease will include a written vessel lease agreement or a notarized statement from the vessel owner and lease holder attesting to the existence of a vessel lease agreement at any time during the QS qualifying years. Conclusive evidence of a vessel lease must identify the leased vessel and indicate the name of the lease holder and the period of time during which the lease was in effect. Other evidence, which may not be conclusive, but may tend to support a vessel lease, may also be submitted.

(iv) Evidence of ownership interest in a dissolved partnership or corporation shall be limited to corporate documents (e.g., articles of incorporation) or notarized statements signed by each

former partner, shareholder or director, and specifying their proportions of interest.

(v) As used in this section, a "legal landing of halibut or sablefish" means halibut or sablefish harvested with fixed gear and landed in compliance with state and Federal regulations in effect at the time of the landing. Evidence of legal landings shall be limited to documentation of state or Federal catch reports that indicate the amount of halibut or sablefish harvested, the IPHC regulatory area or groundfish reporting area in which it was caught, the vessel and gear type used to catch it, and the

date of harvesting, landing, or reporting. State catch reports are Alaska, Washington, Oregon, or California fish tickets. Federal catch reports are weekly production reports required under §§ 672.5(c) and 675.5(c) of this chapter. Sablefish harvested within Prince William Sound, or under a State of Alaska limited entry program, will not be considered in determining qualification to receive QS, nor in calculating initial QS.

(2) *Vessel categories.* Vessel categories include:

(i) Category A—freezer vessels of any length;

(ii) Category B—catcher vessels greater than 60 feet (18.3 meters) in length overall;

(iii) Category C—catcher vessels less than or equal to 60 feet (18.3 meters) in length overall for sablefish, or catcher vessels greater than 35 feet (10.7 meters) but less than or equal to 60 feet (18.3 meters) in length overall for halibut; and

(iv) Category D—catcher vessels that are less than or equal to 35 feet (10.7 meters) in length overall for halibut.

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[FR Doc. 95-28204 Filed 11-15-95; 8:45 am]

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