

business practices that they had had prior to the implementation of the IFQ Program and minimize disruption to existing business arrangements. Eligibility to use a hired master is tied to the quota share holder and not the quota share, so initial recipients could use a hired master on quota share that they acquired over time.

The Council and NMFS have amended the hired master use provision several times since implementation of the IFQ Program to further restrict the use of hired masters and ensure that quota share holders remain vested participants in the IFQ fisheries. The most recent amendment further restricted the use of hired masters by prohibiting initial quota share recipients from using a hired master to harvest IFQ derived from catcher vessel quota share received by transfer after February 12, 2010 (79 FR 43679; July 28, 2014). The final rule to implement this restriction is a limited amendment to the IFQ Program that specifies which quota share yields IFQ that can be fished by a hired master instead of the quota share holder.

The preamble to the final rule describes the need for further restrictions on the use of hired masters in the IFQ Program, and a brief summary is provided here. In February 2010, the Council received testimony that some quota share initial recipients were increasingly using hired masters rather than continuing to be personally on board their vessels when fishing with quota share. Increased use of hired masters was attributed to initial recipients purchasing increasing amounts of quota share, and the IFQ derived from that quota share was being fished by hired masters. The Council was concerned that initial recipients were consolidating quota share to be fished by hired masters and were reducing opportunities for new entrants to the fishery. The Council determined that the transition to a predominately owner-onboard fishery has been unreasonably delayed because the ability to hire a master applies to the quota share holder and not the quota share itself. This allowed initial recipients to hire masters to harvest IFQ derived not only from their initially issued quota share, but also IFQ derived from any quota share received by transfer after initial issuance. As a result, quota share had become consolidated among fewer initial recipients of quota share that use hired masters. Quota share are remaining in the hands of initial recipients who hire masters to fish the resulting IFQ instead of being transferred, which delays the progress toward the Program objective

of an owner-onboard fishery and decreases opportunities for new entrants to the IFQ fishery.

To address this problem, the Council recommended and NMFS implemented the final rule to prohibit the use of a hired master to fish IFQ sablefish and halibut derived from catcher vessel quota share received by transfer after February 12, 2010, with some exceptions described in the final rule (79 FR 43679; July 28, 2014). The Analysis provides additional detail on the need for the final rule and the anticipated impacts of the final rule on affected fishery participants.

On November 16, 2016, the United States District Court, Western District of Washington found that NMFS did not properly assess the final rule in light of the National Standards in the Magnuson-Stevens Act. The United States District Court remanded the final rule to NMFS for further consideration of the National Standards in section 301(a) of the Magnuson-Stevens Act. NMFS completed this consideration after evaluating the information used to prepare the final rule, information presented to the United States District Court, and the best available information relevant to the impacts of the final rule. NMFS has determined that the final rule is consistent with the National Standards as required by the Magnuson-Stevens Act, subject to further consideration after public comment. The Analysis describes the factors NMFS considered in making this determination. NMFS requests public comment on the Analysis for consideration in its final determination of the consistency of the final rule with the Magnuson-Stevens Act National Standards.

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

Dated: April 4, 2018.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 170817779-8161-02]

RIN 0648-XG161

#### Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting retention of non-Community Development Quota (CDQ) sablefish by vessels using trawl gear in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2018 non-CDQ sablefish initial total allowable catch (ITAC) in the Bering Sea subarea of the BSAI will be reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 5, 2018, through 2400 hrs, A.l.t., December 31, 2018.

**FOR FURTHER INFORMATION CONTACT:**

Steve Whitney, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2018 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI is 622 metric tons (mt) as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2018 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI will soon be reached. Therefore, NMFS is requiring that non-CDQ sablefish caught with vessels using trawl gear in the Bering Sea subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b).

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public

interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibited retention of non-CDQ sablefish by vessels using trawl gear in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as April 4, 2018.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C.

553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 5, 2018.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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