

## § 679.50

## 50 CFR Ch. VI (10–1–23 Edition)

of the commercial halibut fishing season each year.

(ii) *Notify permit holder.* Notify the IFQ permit holder or RQE by letter that an insufficient amount has been paid and that the IFQ permit holder has 30 days from the date of the letter to either pay the amount determined to be due or provide additional documentation to prove that the amount paid was the correct amount.

(2) After the expiration of the 30-day period, the Regional Administrator will evaluate any additional documentation submitted by an IFQ permit holder or RQE in support of its payment. If the Regional Administrator determines that the additional documentation does not meet the burden of 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);

## Fishery Conservation and Management

## § 679.51

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]

### § 679.51 Observer and Electronic Monitoring System requirements for vessels and plants.

(a) *Observer requirements for vessels—*  
(1) *Groundfish and halibut fishery partial coverage category—*(i) *Vessel classes in partial coverage category.* Unless otherwise specified in paragraph (a)(2) of this section, the following catcher vessels and catcher/processors are in the partial coverage category when fishing for halibut or when directed fishing for groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

(A) A catcher vessel designated on an FFP under § 679.4(b)(1);

(B) A catcher vessel when fishing for halibut while carrying a person named on a permit issued under § 679.4(d)(1)(i), (d)(2)(i), or (e)(2), or for IFQ sablefish, as defined at § 679.2, while carrying a person named on a permit issued under § 679.4(d)(1)(i) or (d)(2)(i); or

(C) A catcher/processor placed in the partial coverage category under paragraph (a)(3) of this section; or

(D) A catcher vessel less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing under § 679.32(c)(3)(iii).

(ii) *Registration and notification of observer deployment.* The Observer Declare and Deploy System (ODDS) is the communication platform for the partial coverage category by which NMFS receives information about fishing plans subject to randomized observer deployment. Vessel operators provide fishing plan and contact information to NMFS and receive instructions through ODDS for coordinating with an observer pro-

vider for any required observer coverage. Access to ODDS is available through the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

(A) *Registration.* NMFS will enter information into ODDS about all partial coverage category vessels that are designated on an FFP and all catcher vessels that are not designated on an FFP but that landed sablefish IFQ or halibut IFQ or CDQ in the previous or current year. Owners or operators are not responsible for initial registration of their vessel in ODDS.

(B) *Notification.* Upon entry into ODDS, NMFS will notify the owner or operator of his or her vessel's selection pool. Owners and operators must comply with all further instructions set forth by ODDS.

(C) *Trip selection pool.* (1) A minimum of 72 hours prior to embarking on each fishing trip, the operator of a vessel in the trip selection pool must register the anticipated trip with ODDS.

(2) When a fishing trip is registered with ODDS per paragraph (a)(1)(ii)(C)(1) of this section, the vessel operator will be notified by ODDS whether the trip is selected for observer coverage and a receipt number corresponding to this notification will be provided by ODDS. Trip registration is complete when the vessel operator receives a receipt number.

(3) An operator may embark on a fishing trip registered with ODDS:

(i) *Not selected trip.* At any time if ODDS indicates that the fishing trip is not selected for observer coverage.

(ii) *Selected trip.* When an observer is aboard the vessel if ODDS indicates that the fishing trip is selected for observer coverage.

(4) *Delayed trip.* A selected fishing trip not embarked upon within 48 hours of the time specified in the registration with ODDS is invalidated. The operator must register any new trip in accordance with paragraph (a)(1)(ii)(C)(1) of this section.

(5) *Observer coverage duration.* If selected, a vessel is required to carry an observer for the entire fishing trip.

(i) A fishing trip selected for observer coverage may not begin until all previously harvested fish has been offloaded and an observer is aboard the vessel.