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[FR Doc. 02-27133 Filed 10-28-02; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 001005281-0369-02; I.D. 102302A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 12 noon, local time, October 25, 2002, through June 30, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727-570-5305, fax 727-570-5583, e-mail Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the western zone of 1.01 million lb (0.46 million kg) (66 FR 17368, March 30, 2001).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a

notification at the Office of the **Federal Register**. NMFS has determined that the commercial quota of 1.01 million lb (0.46 million kg) for Gulf group king mackerel in the western zone will be reached on October 24, 2002.

Accordingly, the commercial fishery for Gulf group king mackerel in the western zone is closed effective 12 noon, local time, October 25, 2002, through June 30, 2003, the end of the fishing year. The boundary between the eastern and western zones is 87°31'06"W. long., which is a line directly south from the Alabama/Florida boundary.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for Gulf group king mackerel in the EEZ in the closed zones or subzones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones or subzones taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones or subzones that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, there is a need to implement these measures in a timely fashion (manner) to prevent an overrun of the commercial quota of Gulf group king mackerel, given the capacity of the fishing fleet to harvest the quota

quickly. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: October 23, 2002.

Dean Swanson,

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

[FR Doc. 02-27504 Filed 10-24-02; 3:51 pm]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 020606142-2234-02; I.D. 041802F]

RIN 0648-AP39

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Experimental Setnet Sablefish Landings To Qualify Limited Entry Sablefish-Endorsed Permits for Tier Assignment

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

ACTION: Final rule; technical correction.

SUMMARY: NMFS announces approval of a regulatory amendment to revise sablefish tier qualifications for the limited entry, fixed gear, primary sablefish fishery. NMFS issues this final rule to amend tier qualifications to include sablefish landings taken under the provisions of an exempted fishing permit (EFP) from 1984-1985 with setnet gear north of 38° N. latitude (lat.). Setnet EFP landings will be added to the current pot (trap) and longline landings to qualify a sablefish-endorsed permit for its tier assignment. This rule is intended to recognize historical sablefish landings made by current primary season participants.

DATES: Effective October 24, 2002.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) for this action are available from Donald McIsaac,

Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220. Copies of the final regulatory flexibility analysis (FRFA) are available from D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT:

Yvonne deReynier or Jamie Goen (Northwest Region, NMFS), phone: 206-526-6140; fax: 206-526-6736; and email: yvonne.dereynier@noaa.gov, jamie.goen@noaa.gov; or Svein Fougner (Southwest Region, NMFS), phone: 562-980-4040; fax: 562-980-4047; and email: svein.fougner@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is available on the Government Printing Office's website at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Background

On June 24, 2002, NMFS published a proposed rule (67 FR 42525) based on a recommendation of the Pacific Fishery Management Council (Council), under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS requested public comments on the proposed rule through July 24, 2002. No comments were received. NMFS issues this final rule to amend tier qualifications for the limited entry, fixed gear, primary sablefish fishery to include sablefish landings taken under the provisions of an exempted fishing permit (EFP) from 1984-1985 with setnet gear north of 38° N. lat. The background and rationale for this rule are discussed in the preamble to the proposed rule published on June 24, 2002 (67 FR 42525). Additional information is available in the EA/RIR/IRFA prepared by the Council for this action (see **ADDRESSES**). Detailed information regarding the management history of the limited entry, fixed gear, sablefish-endorsed fishery, including the 3-tier program is available in the preamble to the proposed rule for that program at 63 FR 19878, April 22, 1998.

During 1984-1985, some vessels that had historically participated in the pot or longline sablefish fishery chose instead to participate in an EFP to test sablefish catchability with setnet gear north of 38° N. lat. If those vessels had not participated in the setnet EFP and had fished for sablefish with pot or longline gear during 1984-1985 as

usual, the EFP vessels may have qualified for a higher tier assignment.

So as not to discourage future participation in EFPs, the Council recommended that NMFS include EFP setnet landings from 1984-1987 in the qualifying requirements for tier assignment for those fixed gear vessels that had already qualified for a sablefish endorsement. However, NMFS did not issue any setnet EFPs after 1985. Therefore, NMFS will amend the regulations at 50 CFR part 660 to include landings of sablefish taken with setnet gear north of 38° N. lat. under the provisions of an EFP issued by NMFS in 1984-1985 when determining tier qualifications for permits that already have a sablefish endorsement.

Corrections to 50 CFR Part 660

NMFS will make technical corrections to 50 CFR part 660 Subpart A, Subpart B, Subpart C, Subpart D, Subpart E, Subpart F, Subpart G, and Subpart H to correct an outdated title of an agency official.

NMFS will also make technical corrections to the groundfish regulations at 50 CFR part 660. The first correction will add clarifying language to § 660.323(a)(4)(vi) to connect activities authorized under other paragraphs, such that if a whiting reapportionment authorized under § 660.323(a)(4)(iv) were to occur, the re-opening of primary whiting season described at § 660.323(a)(3)(i) is included in the list of Federal actions to be announced at § 660.323(a)(4)(vi). The second correction will update the title of an agency official referenced in § 660.324(d) and § 660.350(b)(3). The third correction will amend a cross reference in § 660.324(f), and § 660.325(d)(2) and (e)(1). These corrections are technical amendments to the groundfish regulations and will not change the effect of the regulations on fisheries entities or resources.

Comments and Responses

No comments were received during the comment period for the proposed rule (67 FR 42525, June 24, 2002), which ended July 24, 2002.

Changes from the Proposed Rule

This final rule includes two minor changes to the regulatory text from the proposed rule. In § 660.334, paragraph (d)(3)(ii), the last sentence was replaced with a sentence specifying what is meant by "application." The replacement sentence reads, "The application shall consist of a written letter stating the applicant's circumstances, requesting action, be signed by the applicant, and submitted

along with the relevant documentation (fish tickets) in support of the application for a change in tier status." In § 660.334, paragraph (d)(3)(iii), the word "certificate" was replaced with the word "permit".

Classification

Under 5 U.S.C. 553 (d)(1), the Assistant Administrator for Fisheries, NOAA waives the 30-day delay in effectiveness for this rule as it relieves a restriction. This rule is intended to recognize historical sablefish landings made by current primary season participants. This rule relieves a restriction by removing an inequity that has been in place since 1998 due to the tier qualification requirements established for the original tier assignments. This restriction is preventing those sablefish-endorsed permit owners who participated in the setnet EFP from 1984-1985 from using their setnet EFP sablefish landings during this period to qualify for tier assignments. This restriction has kept some vessels from possibly qualifying for a higher tier assignment and has thus restricted their ability to land more sablefish each year since 1998. This rule relieves the restriction by allowing sablefish-endorsed permit owners who participated in setnet EFPs during 1984-1985 to submit those setnet EFP sablefish landings to qualify for a higher tier designation. Delaying effectiveness of this rule would unnecessarily perpetuate the inequity by not allowing fishermen who qualify for a higher tier assignment access to increased sablefish landings associated with the higher tier during the 2002 primary season. The primary sablefish season for 2002 is from April 1 - October 31. The 30-day delay in effectiveness would not allow fishermen adequate time to apply for a tier upgrade based on setnet EFP sablefish landings and would not allow NMFS time to process that application before the end of the 2002 primary season.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS prepared a FRFA describing the impact of this action on small entities. The IRFA was summarized in the proposed rule on June 24, 2002 (67 FR 42525). The following is the summary of the FRFA.

Because the Council omitted setnet landings made under EFPs from the qualifying requirements for the 3-tier limited entry fixed gear sablefish fishery, this regulatory amendment is intended to recognize those historical sablefish landings made by current primary season participants. Qualifying

requirements under subsequent amendments to the limited entry fixed gear sablefish fishery were low enough that the issue of whether to include setnet EFP landings did not come up. After implementation of the 3-tier program, the issue of whether to include setnet landings to qualify for tier assignment was brought to the Council's attention through an appeal process provided for in the 3-tier program's regulations.

In the case of the setnet fishery north of 38° N. lat., some vessels that had historically participated in the sablefish fishery chose instead to participate in an EFP to test sablefish catchability with setnet gear north of 38° N. lat. If those vessels had not participated in the setnet EFP and had fished for sablefish with pot or longline gear during 1984–1985 as usual, the vessels may have qualified for higher tier assignments. It is inequitable to exclude setnet EFP landings in the tier qualifications for a vessel that historically participated in the fixed gear sablefish fishery and could have qualified for a higher tier had it not participated in the EFP.

In addition, those who participated in the EFPs with setnet gear believed they were investing in the future of the fixed gear fishery and took part in the fishery with Council consent. If, in determining the level of a permit's qualification for harvest privileges the Council and NMFS had decided to disallow landings taken under the setnet EFPs, they could have discouraged fishers from taking part in experimental fisheries in the future. A public policy that discourages participation in EFPs would inhibit useful innovation in the fishery.

The comment period on the proposed rule (67 FR 42525, June 24, 2002) for this action ended on July 24, 2002. The agency did not receive any public comments on the proposed rule or the IRFA during the comment period.

This rule will apply to owners of limited entry fixed gear sablefish permits that have a catch history that includes sablefish fishing with setnet gear under an experimental fishing permit. While two owners qualify for the provisions under this rule, only one is expected to have sufficient setnet landings to move his permit to a higher sablefish tier. The other owner already has the highest sablefish tier, Tier 1, and could not increase his tier assignment by including setnet EFP landings in his qualifications. All other limited entry fixed gear sablefish permit owners will be modestly affected by a shift of sablefish allocation toward the one owner with setnet EFP landings history.

The only reporting or recordkeeping requirement associated with this rule is

a one-time application process requesting that setnet EFP landings be included in sablefish tier qualifications. The application consists of a letter requesting action together with any relevant evidence, in this case fish tickets, to be submitted to NMFS Sustainable Fisheries Division by the party wishing to qualify for a higher tier based on setnet EFP landings. The application process for a tier upgrade will be open for a window period starting when the final rule is published until December 31, 2002.

Compliance requirements do not go beyond general compliance requirements for operating in the Pacific coast primary sablefish fishery. The primary sablefish fishery has been managed under the 3-tier system since 1998, so the concept and the compliance requirements associated with the concept are well understood. No specialized skills are needed for meeting these compliance requirements.

The range of alternatives considered to count setnet EFP sablefish landings toward tier qualifications were from giving vessels no credit for setnet landings (no action); partial credit for the landings, or 100 percent credit for the landings (adopted action). There is no apparent rationale to guide the selection of the partial credit approach. Therefore, the partial credit approach risked being arbitrary and capricious and intermediate options were not analyzed. The intermediate alternatives considered but not analyzed included allowing vessels with setnet landings to qualify for a higher tier for a temporary period of time or creating an intermediate tier level for which vessels with setnet landings might qualify. The provision of higher levels of access for a temporary period has been used in the past as a way of reducing the negative effects of disruption in the fishery while small businesses make a transition to new restrictions (e.g., the "B" permits that were provided in Amendment 6 and grandfather provisions in Amendment 14). However, in this case, vessels have been operating under the three-tier system since 1998, and have likely already made transitions.

Additionally, creating a temporary higher tier doesn't address, over the long-term, the issue of unfairness to historical fixed gear sablefish fishermen who chose to participate in the setnet EFP instead and were penalized when the tier system was created. Thus, a temporary higher tier might still discourage future participation in EFPs. Therefore, the intermediate alternative of a temporary higher tier does not address the purpose and need of the proposed action. Similarly, creation of

an intermediate tier level to provide some accommodation for vessels with setnet landings would present a problem similar to that of giving partial credit for setnet landings, (i.e., identification of a rational basis for setting the level of harvest for the intermediate tier). Creation of a new intermediate tier would also make the management system more complex.

The expected net effects between no action and the adopted action are primarily reallocational in nature. Under the adopted action, the amount of reallocation is less than three quarters of one percent of the allocation to the primary fixed gear sablefish fishery, with less than one quarter of one percent moving between gear types (from pot to longline). The permits for some vessels may be reassigned to higher tiers, resulting in a reduction in the cumulative limits for all permits in all tiers. None of the alternatives considered would change the amount of fixed gear sablefish harvested or change managers' ability to control harvest. The adopted alternative will not adversely impact the sablefish stock, other species, or the ocean environment. This action is being proposed to address fairness and equity considerations and to avoid discouraging future innovation through EFPs (innovation may directly contribute to meeting the objectives of the FMP and Magnuson-Stevens Act national standard guidelines). It was for these reasons that NMFS and the Council adopted the action to include setnet EFP sablefish landings in tier qualifications, which will be implemented through this final rule. A copy of the FRFA is available from NMFS (see **ADDRESSES**).

This rule contains a collection-of-information requirement that can only apply to two individuals according to the requirements of the rule that applicants are sablefish-endorsed permit owners who participated in setnet EFPs between 1984–1985. Therefore, because this rule applies to less than 10 people, it is not subject to the requirements of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: October 22, 2002.

Rebecca Lent,

*Deputy Assistant Administrator, for
Regulatory Programs National Marine
Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660— FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

§ 660.324 [Amended]

2. In § 660.324, paragraph (d) remove the words “Regional Director” and add in their place, “Regional Administrator”, and in Paragraph (f) remove the words “subpart C” and add in their place, “§ 660.331 through § 660.341”.

3. In § 660.334, paragraphs (d)(2) and (3) are redesignated as paragraphs (d)(3) and (4), respectively, a new paragraph (d)(2) is added; the newly redesignated paragraphs (d)(3) and (d)(4) are revised to read as follows:

§ 660.334 Limited entry permits endorsements.

* * * * *

(d) * * *

(2) Endorsement and tier assignment qualifying criteria.

(i) Permit catch history. Permit catch history will be used to determine whether a permit meets the qualifying criteria for a fixed gear sablefish endorsement and to determine the appropriate tier assignment for endorsed permits. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if the appeal for which an interim permit was issued was lost by the appellant, and the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full “A” permit was ultimately granted will also be considered part of the catch history of the “A” permit. If the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the

permits that were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring after it was combined, but taken within the qualifying period. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by this part that was taken with longline or trap (pot) gear will be considered for the sablefish endorsement, except that vessels qualifying for the sablefish endorsement based on longline or trap (pot) landings may include setnet sablefish landings defined at (d)(2)(ii)(B) of this section in meeting tier assignment qualifications. Sablefish harvested illegally or landed illegally will not be considered for this endorsement.

(ii) Sablefish endorsement tier assignments. Only limited entry, fixed gear permits with sablefish endorsements will receive cumulative trip limit tier assignments.

(A) The qualifying weight criteria for Tier 1 are at least 898,000 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984–1994. The qualifying weight criteria for Tier 2 are at least 380,000 lb (172,365 kg), but no more than 897,999 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984–1994. Fixed gear permits with less than 380,000 lb (172,365 kg) cumulative round weight of sablefish caught over the years 1984–1994 qualify for Tier 3. All qualifying sablefish landings must be caught with longline or trap (pot), although setnet landings defined at subparagraph (B) of this section may also be included in tier assignment qualifying landings. Sablefish taken in tribal set aside fisheries does not qualify.

(B) Setnet sablefish landings are included in sablefish endorsement tier assignment qualifying criteria if those landings were made north of 38° N. lat. under the authority of an EFP issued by NMFS in any of the years 1984–1985, by a vessel that landed at least 16,000 lb (7,257 kg) of sablefish with longline or trap (pot) gear in any one year between 1984–1994.

(iii) Evidence and burden of proof. A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, replacement, transfer, or registration of a limited

entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (pot) gear applying for a sablefish endorsement or a tier assignment under this section has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(A) A certified copy of the current vessel document (USCG or State) is the best evidence of vessel ownership and LOA.

(B) A certified copy of a State fish receiving ticket is the best evidence of a landing, and of the type of gear used.

(C) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights.

(D) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(3) Issuance process for sablefish endorsements and tier assignments. (i) No new applications for sablefish endorsements will be accepted after November 30, 1998.

(ii) All tier assignments and subsequent appeals processes were completed by September 1998. If, however, a permit owner with a sablefish endorsement believes that his permit may qualify for a change in tier status based on qualifications in paragraph (d)(2)(ii)(B) of this section, the SFD will accept applications for a tier change through December 31, 2002. The application shall consist of a written letter stating the applicant's circumstances, requesting action, be signed by the applicant, and submitted along with the relevant documentation (fish tickets) in support of the application for a change in tier status.

(iii) After review of the evidence submitted under paragraph (ii), and any additional information the SFD finds to be relevant, the Regional Administrator will issue a letter of determination notifying a permit owner of whether the evidence submitted is sufficient to alter the initial tier assignment. If the Regional Administrator determines the permit qualifies for a different tier, the permit owner will be issued a permit with the revised tier assignment once the initial permit is returned to the SFD for processing.

(iv) If a permit owner chooses to file an appeal of the determination under paragraph (iii) of this section, the appeal must be filed with the Regional Administrator within 30 days of the issuance of the letter of determination. The appeal must be in writing and must

allege facts or circumstances, and include credible evidence demonstrating why the permit qualifies for a different tier assignment. The appeal of a denial of an application for a different tier assignment will not be referred to the Council for a recommendation under § 660.340 (e).

(v) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(4) Ownership requirements and limitations. (i) No partnership or corporation may own a limited entry permit with a sablefish endorsement unless that partnership or corporation owned a limited entry permit with a sablefish endorsement on November 1, 2000. Otherwise, only individual human persons may own limited entry permits with sablefish endorsements.

(ii) No person, partnership, or corporation may have ownership interest in or hold more than three permits with sablefish endorsements, except for persons, partnerships, or corporations that had ownership interest in more than 3 permits with sablefish endorsements as of November 1, 2000. The exemption from the maximum ownership level of 3 permits only applies to ownership of the particular permits that were owned on November 1, 2000. Persons, partnerships or corporations that had ownership interest 3 or more permits with sablefish endorsements as of November 1, 2000, may not acquire additional permits beyond those particular permits owned on November 1, 2000. If, at some future time, a person, partnership, or corporation that owned more than 3 permits as of November 1, 2000, sells or otherwise permanently transfers (not leases) some of its originally owned permits, such that they then own fewer than 3 permits, they may then acquire additional permits, but may not have ownership interest in or hold more than 3 permits.

(iii) A partnership or corporation will lose the exemptions provided in paragraphs (d)(4)(i) and (ii) of this

section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A "change" in the partnership or corporation means a change in the corporate or partnership membership, except a change caused by the death of a member providing the death did not result in any new members. A change in membership is not considered to have occurred if a member becomes legally incapacitated and a trustee is appointed to act on his behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

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5. In § 660.335, paragraphs (d)(1), (d)(2), and (e)(1) are revised to read as follows:

§ 660.335 Limited entry permits renewal, combination, stacking, change of permit ownership or permit holder, and transfer.

* * * * *

(d) * * *

(1) General. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit ownership has been registered with and approved by the SFD. The SFD will not approve a change in permit ownership for limited entry permits with sablefish endorsements that does not meet the ownership requirements for those permits described at § 660.334 (d)(4).

(2) Effective date. The change in ownership of the permit or change in the permit holder will be effective on the day the change is approved by SFD, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (e) of this section.

* * * * *

(e) * * *

(1) General. A permit may not be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit transfer occurs when, through SFD, a permit owner

registers a limited entry permit for use with a new vessel. Permit transfer applications must be submitted to SFD with the appropriate documentation described at paragraph (g) of this section. Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel.

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6. In § 660.350, paragraph (b)(3) remove the term "RA" and add, in its place, the words "Regional Administrator".

7. In addition to the amendments set forth above, in 50 CFR part 660 remove the words "Regional Director" and add, in their place, the words "Regional Administrator" in the following places:

- a. Section 660.12,;
- b. Section 660.14 (b), (c), (e), and (f)(2);
- c. Section 660.15, (e) and (j);
- d. Section 660.17 (a), (c), (d), (e)(1), (e)(2), (e)(4) and (k);
- e. Section 660.21 (l) introductory text, (l)(1), (l)(2), and (l)(3) and (l)(4);
- f. Section 660.23 (a) and (b);
- g. Section 660.27 (e), (f)(1), (f)(2) introductory text, and (f)(2)(i);
- h. Section 660.28 (b), (e), (g), (h), (i)(1), and (i)(2)(ii);
- i. Section 660.31 (c)(2), (d)(2), and (g)(2);
- j. Section 660.43 (b);
- k. Section 660.50 (c);
- l. Section 660.51 (a), (b), (c)(1), (c)(2), (d), (e), (f), (g)(1), (g)(2), and (j)(2);
- m. Section 660.52 (a), (b)(1) and (b)(3);
- n. Section 660.53 (c)(2) and (d)(2);
- o. Section 660.65 (a) and (d);
- p. Section 660.66 introductory text and (a);
- q. Section 660.67 (c)(1), (c)(2), (c)(4), (d)(2)(iii), and (d)(2)(iv);
- r. Section 660.81 (e);
- s. Section 660.84 (c)(2) and (c)(4);
- t. Section 660.85 (a);
- u. Section 660.302;
- v. Section 660.321 (a);
- w. Section 660.324 (d);
- x. Section 660.339;
- y. Section 660.402;
- z. Section 660.409 (a)(1) and (b)(1);
- aa. Section 660.411 (c).

[FR Doc. 02-27360 Filed 10-24-02; 3:53 pm]

BILLING CODE 3510-22-S