

is in a language other than English, the United States International Preliminary Examining Authority may, where the validity of the priority claim is relevant for the formulation of the opinion referred to in Article 33(1), invite the applicant to furnish an English translation of the priority document within two months from the date of the invitation. If the translation is not furnished within that time limit, the international preliminary report may be established as if the priority had not been claimed.

Dated: October 10, 2003.

**Jon W. Dudas,**

*Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.*

[FR Doc. 03-26338 Filed 10-17-03; 8:45 am]

**BILLING CODE 3510-16-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021122286-3036-02; I.D. 101403B]

### Fisheries of the Economic Exclusive Zone Off Alaska; Trawl Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for groundfish by vessels using trawl gear in the Gulf of Alaska (GOA), except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the 2003 Pacific halibut prohibited species catch (PSC) limit specified for trawl gear in the GOA has been caught.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 15, 2003, until 1200 hrs, A.l.t., December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 2003 Pacific halibut PSC limit for vessels using trawl was established as 2,000 metric tons (mt) by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003).

The Administrator, Alaska Region, has determined, in accordance with § 679.21(d)(7)(i), that vessels engaged in directed fishing for groundfish with trawl gear in the GOA have caught the 2003 Pacific halibut PSC limit. Therefore, NMFS is closing the directed fishery for groundfish by vessels using trawl gear in the GOA, except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock.

#### 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 contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 Pacific halibut PSC limit and therefore reduce the public's ability to use and enjoy the fishery resource.

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 is exempt from review under Executive Order 12866.

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

Dated: October 14, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 03-26392 Filed 10-15-03; 3:31 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021213310-3251-03; I.D. 100203C]

**RIN 0648-AP92**

### Individual Fishing Quota (IFQ) Program for Pacific Halibut and Sablefish; Technical Amendment

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This document reinstates recordkeeping and reporting regulations implementing the IFQ Cost Recovery Program which were inadvertently removed from regulations in a final rule published in the **Federal Register** on July 29, 2003. That final rule implemented Amendment 72 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (Amendment 72) and Amendment 64 to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (Amendment 64) (collectively, Amendments 72/64) and revised recordkeeping and reporting requirements for the IFQ and CDQ halibut programs. This action is necessary to correct the error and restore the regulations implementing the IFQ Cost Recovery Program.

**DATES:** Effective October 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7228 or [patsy.bearden@noaa.gov](mailto:patsy.bearden@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The IFQ Cost Recovery Program is managed by the NMFS, Alaska Region, Restricted Access Management (RAM). Regulations implementing the IFQ Cost Recovery Program were published in the **Federal Register** on March 20, 2000 (65 FR 14919) and amended by publication in the **Federal Register** on January 28, 2002 (67 FR 4100). Under the regulations, an IFQ permit holder incurs a cost recovery fee liability for each pound of IFQ halibut or sablefish landed on his/her permit(s). The regulations included recordkeeping and reporting requirements at § 679.5(l)(7) necessary to implement the IFQ Cost Recovery Program. See 65 FR 14923 (March 20, 2000), amended at 67 FR 4130 (January 28, 2002). A final rule published in the **Federal Register** on

July 29, 2003, implemented additional amendments to §679.5(l) as NMFS intended, but erroneously removed §679.5(l)(7) in its entirety (68 FR 9907). NMFS intended to amend § 679.5(l)(1) through (l)(6), but amendatory instruction number 4 incorrectly removed §679.5(l)(7). This final rule restores §679.5(l)(7) to the recordkeeping and reporting regulations implementing the IFQ Cost Recovery Program.

This final rule must be effective by October 15 to collect information necessary to carry out the IFQ Cost Recovery Program. Under § 679.5(l)(7), an IFQ Registered Buyer that also operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut must submit annually to NMFS a complete IFQ Buyer Report for each reporting period in which the Registered Buyer receives IFQ fish. A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator by October 15 following the reporting period in which the IFQ Registered Buyer receives the IFQ fish. Submission of these reports is essential to implementation of the IFQ Cost Recovery Program.

#### Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this final rule is necessary for the conservation and management of the groundfish fisheries of the BSAI and GOA. The Regional Administrator also has determined that this action is consistent with the Magnuson-Stevens Act and other applicable laws.

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

By this action, NMFS restores the IFQ Cost Recovery Program recordkeeping and reporting requirements that had been in effect from March 15, 2000, to August 28, 2003, when they were erroneously rescinded. The rescission has had no substantive effect on the conduct of persons subject to these recordkeeping and reporting requirements because, the information gathered for the report is collected as part of normal business practices. Additionally, the October 15 deadline for submission of the IFQ Buyer Report had not yet arrived so participants in this fishery have not missed any relevant deadlines.

Accordingly, the Assistant Administrator for Fisheries finds good cause to waive prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B) because prior notice and opportunity for public

comment is unnecessary: neither the erroneous rescission nor this final rule has a substantive effect on the conduct of regulated persons. Because the affected industry gathers this information as part of their normal business practices, additional time is not required to allow them to come into compliance since they are already undertaking the obligation. The Assistant Administrator for Fisheries also finds that there exists good cause to waive the requirement of a 30 day delay in the effective date of this rule pursuant to 5 U.S.C. 553(d)(3), in order to allow participants in the fishery to meet the next deadline for submission of reports.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648-0398 (see 65 FR 14922, col. 1; March 20, 2000).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information requirement displays a currently valid OMB control number.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 14, 2003.

**Rebecca Lent,**

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

■ For the reasons set forth in the preamble, 50 CFR part 679 is amended as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*, Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

■ 2. In § 679.5, paragraph (l)(7) is added to read as follows:

#### § 679.5 Recordkeeping and reporting (R&R).

\* \* \* \* \*

(l) \* \* \*

(7) *IFQ cost recovery program.—(i) IFQ buyer report.*

**(A) Applicability.** An IFQ registered buyer that also operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut must submit annually to NMFS a complete IFQ Buyer Report as described in this paragraph (l) and as provided by NMFS for each reporting period, as described at § 679.5(l)(7)(i)(E), in which the registered buyer receives IFQ fish.

**(B) Due date.** A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than October 15 following the reporting period in which the IFQ registered buyer receives the IFQ fish.

**(C) Information required.** A complete IFQ Buyer Report must include the following information:

(1) *IFQ registered buyer identification*, including:

(i) Name,  
(ii) Registered buyer number,  
(iii) Social Security number or tax identification number,  
(iv) NMFS person identification number (if applicable),  
(v) Business address,  
(vi) Telephone number,  
(vii) Facsimile telephone number,  
(viii) Primary registered buyer activity,  
(ix) Other registered buyer activity, and

(x) Landing port location;

(2) *Pounds purchased and values paid.* (i) The monthly total weights, represented in IFQ equivalent pounds by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(ii) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(3) *Value paid for price adjustments.*

(i) The monthly total U.S. dollar amount of any IFQ retro-payments (correlated by IFQ species, landing month(s), and month of payment) made in the current year to IFQ permit holders for landings made during the previous calendar year;

(ii) Certification, including the signature or electronic PIN of the individual authorized by the IFQ registered buyer to submit the IFQ Buyer Report, and date of signature or date of electronic submittal.

**(D) Submission address.** The registered buyer must complete an IFQ Buyer Report and submit by mail or FAX to:

Administrator, Alaska Region, NMFS, Attn: RAM Program, P.O. Box 21668, Juneau, AK 99802-1668, FAX: (907) 586-7354

or electronically to NMFS via forms available from RAM or on the RAM area

of the Alaska Region Home Page at <http://www.fakr.noaa.gov/ram>.

(E) *Reporting period.* The reporting period of the IFQ Buyer Report shall extend from October 1 through September 30 of the following year, inclusive.

(ii) *IFQ permit holder Fee Submission Form—(A) Applicability.* An IFQ permit holder who holds an IFQ permit against which a landing was made must submit to NMFS a complete IFQ permit holder Fee Submission Form provided by NMFS.

(B) *Due date and submittal.* A complete IFQ permit holder Fee Submission Form must be postmarked or received by the Regional Administrator not later than January 31 following the calendar year in which any IFQ landing was made.

(C) *Contents of an IFQ Fee Submission Form.* For each of the sections described here, a permit holder must provide the specified information.

(1) *Identification of the IFQ permit holder.* An IFQ permit holder with an IFQ landing must accurately record on the identification section of the IFQ Fee Submission Form the following information:

(i) The printed name of the IFQ permit holder;

(ii) The NMFS person identification number;

(iii) The Social Security number or tax ID number of the IFQ permit holder;

(iv) The business mailing address of the IFQ permit holder; and

(v) The telephone and facsimile number (if available) of the IFQ permit holder.

(2) *IFQ landing summary and estimated fee liability.* NMFS will provide to an IFQ permit holder an IFQ Landing Summary and Estimated Fee Liability page as required by § 679.45(a)(2). The IFQ permit holder must either accept the accuracy of the NMFS estimated fee liability associated with his or her IFQ landings for each IFQ permit, or calculate a revised IFQ fee liability in accordance with

paragraph (l)(7)(ii)(C)(2)(i) of this section. The IFQ permit holder may calculate a revised fee liability for all or part of his or her IFQ landings.

(i) *Revised fee liability calculation.* To calculate a revised fee liability, an IFQ permit holder must multiply the IFQ percentage in effect by either the IFQ actual ex-vessel value or the IFQ standard ex-vessel of the IFQ landing. If parts of the landing have different values, the permit holder must apply the appropriate values to the different parts of the landings.

(ii) *Documentation.* If NMFS requests in writing that a permit holder submit documentation establishing the factual basis for a revised IFQ fee liability, the permit holder must submit adequate documentation by the 30th day after the date of such request. Examples of such documentation regarding initial sales transactions of IFQ landings include valid fish tickets, sales receipts, or check stubs that clearly identify the IFQ landing amount, species, date, time, and ex-vessel value or price.

(3) *Fee calculation section.—(i) Information required.* An IFQ permit holder with an IFQ landing must record the following information on the Fee Calculation page: The name of the IFQ permit holder; the NMFS person identification number; the fee liability amount due for each IFQ permit he or she may hold; the IFQ permit number corresponding to such fee liability amount(s) due; the total price adjustment payment value for all IFQ halibut and/or sablefish (e.g., IFQ retro-payments) received during the reporting period for the IFQ Fee Submission Form as described in § 679.5(l)(7)(ii)(D); and the fee liability amount due for such price adjustments.

(ii) *Calculation of total annual fee amount.* An IFQ permit holder with an IFQ landing must perform the following calculations and record the results on the Fee Calculation page: add all fee liability amount(s) due for each IFQ permit and record the sum as the subtotal fee liability for all permits;

multiply price adjustment payment(s) received for each IFQ species by the fee percentage in effect at the time the payment(s) was received by the IFQ permit holder; add the resulting fee liability amounts due for all price adjustment payments for each IFQ species, then enter the sum as the subtotal fee for price adjustments; add the sub-total fee liability for all permits and the sub-total fee for price adjustments, then enter the resulting sum as the total annual fee amount on the Fee Calculation page and on the Fee Payment page.

(4) *Fee payment and certification section.—(i) Information required.* An IFQ permit holder with an IFQ landing must provide his or her NMFS person identification number, signature, and date of signature on the Fee Payment section of the form or provide the electronic equivalent and record the following: his or her printed name; the total annual fee amount as calculated and recorded on the Fee Calculation page; the total of any pre-payments submitted to NMFS that apply to the total annual fee amount; the remaining balance fee; and the enclosed payment amount.

(ii) *Calculation of balance fee payment.* An IFQ permit holder with an IFQ landing must perform the following calculation on the Fee Payment section of the Fee Submission Form: Subtract from the total annual fee amount the total of all pre-payments made (if any) to NMFS and any credits held by NMFS that are applicable to that year's total IFQ cost recovery fees, and record the result as the balance of the fee amount due.

(D) *Reporting Period.* The reporting period of the IFQ Fee Submission Form shall extend from January 1 to December 31 of the year prior to the January 31 due date described in § 679.5(l)(7)(ii)(B).

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[FR Doc. 03-26391 Filed 10-15-03; 3:31 pm]

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