

and effort reintroduced. The Council requested an option be developed such that, if a permit holder failed to maintain continuous interest in participating in the fishery, as evidenced by annual permit renewal, the permit would expire. In this way, when attrition occurs, i.e., someone discontinues interest in the fishery without transferring the access rights to someone else, that attrition may be 'locked in' and the permit may not be brought back 'on-line' at a later date.

Section 14.3.5 of Amendment 6, specified very limited exceptions to the timely permit renewal requirement: "With respect to permit renewal, only illness, injury or death of one of the vessel owners will be considered good cause."

NMFS has determined that this administrative requirement is overly restrictive for the program's first annual renewal period. During such period, some permit owners may not have been aware of the need to renew by November 30, 1994, or the penalty for failing to do so. Permanent loss of the permit is too severe a consequence for a late renewal application the first year.

NMFS has determined that it is necessary to provide immediate relief from the overly restrictive administrative requirements at 50 CFR 663.41(c)(3) and to allow permit owners to continue to fish in 1995. All permit owners, even those who failed to submit their first annual renewal by November 30, 1994, demonstrated substantial participation in the Pacific Coast groundfish fishery by meeting initial permit issuance qualifications. Ensuring an opportunity for each permit holder's continued participation is consistent with the goals and objectives of the FMP. In the absence of an amendment to the regulations, permit owners who applied for permit renewal late or whose permits were not renewed by November 30, could lose their permits forever and face a potential loss of

livelihood. Allowing the extra time for renewal does not frustrate the program's ultimate goal of "locking in" attrition, because permit owners still need to renew within a reasonable period of time.

Under this emergency rule, a permit owner who did not apply for limited entry permit renewal by November 30, 1994, has until March 31, 1995, to submit a request for annual renewal. If NMFS approves the renewal, the permit shall be reissued for the remainder of 1995.

Classification

NMFS has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator for Fisheries, NOAA, finds that the reasons justifying implementation of this rule on an emergency basis are good cause not to provide prior notice and opportunity for public comment under section 553(b) of the Administrative Procedure Act (APA). NMFS has determined that limiting the period for applying for a permit renewal to 2 months in this first year of the limited entry program is unnecessarily restrictive. In order to allow fishermen, who otherwise would forgo their fishing opportunities in 1995, to renew their permits and fish early in 1995, and to keep their permits from permanently expiring, NMFS has determined it is impracticable and contrary to provide prior notice and opportunity for public comment. Further, pursuant to section 553(d)(1) of the APA, these emergency regulations are being made effective on filing because they relieve a restriction.

This emergency rule has been determined to be not significant for purposes of E.O. 12866.

No environmental assessment was prepared under the provisions of the National Environmental Policy Act

because this rule makes a minor change and is within the scope of the Supplemental Environmental Impact Statement prepared for the limited entry plan (Amendment 6 to the FMP).

This emergency rule is in compliance with the Paperwork Reduction Act. This rule will not increase the information collection burden of the existing limited entry permit program. The emergency rule does not alter the types of information required in a limited entry permit application, as approved by the Office of Management and Budget, OMB Control Number 0648-0203.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is amended as follows:

PART 663—PACIFIC COAST GROUND FISH FISHERY

1. The authority citation for part 663 continues to read as follows:

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

2. In § 663.41, a new paragraph (c)(4) is added to read as follows:

§ 663.41 Limited entry permits.

* * * * *

(c) * * *

(4) Notwithstanding § 663.41(c)(1) and (3), limited entry permits that expired at the end of 1994 may be renewed after November 30, 1994, but not later than March 31, 1995, in order to remain in force during 1995.

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