

fishing season in 1995. It is possible that such situations may occur in the future.

To correct the problem, the interim rule established a QS pool reserve for catch history that would otherwise have been withheld from the QS pool due to the pendency, at the time of annual IFQ determinations, of an appeal involving contested catch history, vessel ownership, or vessel lease data by two or more QS applicants. The interim rule allowed NMFS to set aside QS in the reserve pool for deferred award to specific appellants, and to include this QS in the total QS pool for purposes of determining the amount of IFQ to be assigned to each holder of QS.

The interim rule addressed the problem that appeals involving multiparty contests could unjustly result in failure to allocate IFQ for the annual fishing season to applicants who make timely and sufficient application for participation in the IFQ Program. The QS pool reserve is used only in situations in which eligibility for qualifying pounds has been established but the appropriate party to be issued QS and resulting IFQ remains contested pending a decision.

Changes to General Prohibitions

Close monitoring of the harvest of IFQ halibut and IFQ sablefish is required to prevent exceeding the total allowable catch for halibut and sablefish fixed gear fisheries in each regulatory area. A regulation at § 676.16(d) was designed to ensure that an IFQ holder harvested his or her IFQ only in the regulatory area specified on his or her IFQ permit. This regulation, enforced by at-sea monitoring of catches, made it unlawful for any person to retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is operating, and that is currently held by all IFQ card holders on board the vessel.

The practical effect of this provision was to require persons to offload all IFQ species caught in one regulatory area before fishing IFQ in another regulatory area. IFQ holders with small amounts of IFQ in multiple regulatory areas were especially affected, because the IFQ held in one area was frequently too small to cover the IFQ species harvested in that area and another.

Members of the fishing industry requested the Council to relieve the requirement specified in § 676.16(d). At its meeting in June 21–25, 1995, the Council recommended that NMFS implement an emergency rule to allow vessels required to keep daily logs and carry 100 percent observer coverage to retain IFQ halibut or IFQ sablefish in excess of the total amount of unharvested IFQ applicable to that vessel in the IFQ regulatory area in which the vessel is operating. The Council also recommended that the regulations be so amended for future years.

NMFS determined that an interim rule was appropriate to effect the changes requested by the Council and, in the interim rule published at 60 FR 45378, August 31, 1995, amended § 676.16(d) to allow vessel operators subject to recordkeeping and observer coverage regulations to fish for IFQ species in regulatory areas for which persons aboard the vessel hold IFQ, even when the amount of IFQ held for a specific area is less than the total amount of IFQ species on board the vessel.

A vessel operator must comply with the requirements at § 676.16(d), unless the vessel has an observer aboard pursuant to 50 CFR part 677 while fishing for the IFQ species in the regulatory area concerned and complies with the applicable daily fishing logbook requirements at 50 CFR 301.15, 672.5(b)(2), and 675.5(b)(2). The observer and recordkeeping requirements enable authorized officers to verify that the IFQ halibut or IFQ sablefish on board was lawfully harvested in the appropriate IFQ regulatory area by an IFQ card holder with sufficient unused IFQ applicable to the vessel category. The interim rule thus provided added flexibility to the IFQ holder's fishing schedule while still allowing NMFS to monitor closely IFQ harvests.

Although the Council requested that this relief be provided in all IFQ regulatory areas, current provisions in 50 CFR 301 remain in force and partly diminish the benefits of the present action. Specifically, provisions in § 301.14 require a vessel operator who intends to harvest halibut in areas 4A, 4B, 4C, or 4D to obtain a vessel

clearance in designated ports before commencing harvest or landing of halibut. This vessel clearance requirement, while not in direct conflict with the interim rule, may diminish the intended effect. Any changes to the requirements of § 301.14 must be approved and adopted by the International Pacific Halibut Commission.

Classification

This final rule finalizes actions made effective by interim rules published at 60 FR 6448 on February 2, 1995, and 60 FR 45378 on August 31, 1995. Though the requirement for prior notice and an opportunity for public comment was waived for good cause on both of the interim rules, an opportunity for comment was provided. NMFS received no comments and adopts the interim rules as final without change. In that this rule finalizes actions already in effect, a delayed effectiveness period is unnecessary and is therefore waived for good cause pursuant to 5 U.S.C. 553(d)(3).

This final rule does not require the collection of new information, but adopts a shorter period of time within which affected persons would have to submit information. The collection of information necessary for this rule has been approved by the Office of Management and Budget (OMB), OMB control number 0648–0272 (regarding IFQs for Pacific halibut and sablefish), OMB control number 0648–0280 (North Pacific Fisheries Research Plan), and OMB control number 0648–0213 (logbook family of forms).

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

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

Dated: November 22, 1995.

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Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, the interim rules amending 50 CFR part 676 that were published at 60 FR 6448, February 2, 1995, and 60 FR 45378, August 31, 1995, are adopted as a final rule without change.

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