

the continued protection of public health and the environment.

F. Protectiveness

All the completion requirements for this Site have been met as described in the Final Close-Out Report (COR) dated September 1997. The Final COR documents the effectiveness of the post-remedial environmental monitoring and that the remedy (slurry wall, multi-layered cap, leachate collection system, gas venting system and installation of a Site security fence) remains protective. Site O&M activities will be performed by BFI, with EPA oversight.

EPA and NJDEP have determined that all appropriate Fund-financed responses under CERCLA at the Site have been completed, and that no further construction activities by responsible parties is necessary except for operation and maintenance requirements. EPA will be providing oversight of all operation and maintenance activities. Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available in the docket.

Dated: September 29, 1997.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 97-29150 Filed 11-5-97; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 679

[Docket No. 971015247-7247-01; I.D. 091597D]

RIN 0648-AK19

Fisheries in the Exclusive Economic Zone Off Alaska; Modify IFQ Survivorship Transfer Provisions

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes a regulatory amendment to the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries in and off of Alaska. This action would modify the survivorship transfer provisions to allow heirs of deceased quota share (QS) or IFQ holders to receive such QS or IFQ by transfer and to transfer the resulting IFQs to any person eligible to receive IFQ for up to 3 years following the date of a QS

holder's death. This action is necessary to extend survivorship privileges to other heirs in addition to surviving spouses and to allow such heirs to obtain pecuniary benefit from such IFQ. The intended effect of this action is to provide temporary financial relief for the heirs of QS holders.

DATES: Comments on the proposed rule and Regulatory Impact Review (RIR) must be received December 8, 1997.

ADDRESSES: Comments must be sent to the Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

FOR FURTHER INFORMATION CONTACT: James Hale, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The fixed gear halibut and sablefish fisheries are managed by the IFQ Program, a limited access system for fixed gear Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fisheries in and off of Alaska. Under authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act of 1982 (Halibut Act), NMFS implemented the IFQ Program in 1995, on the recommendation of the North Pacific Fishery Management Council (Council), to reduce excessive fishing capacity in the fixed gear Pacific halibut and sablefish fisheries, while maintaining the social and economic character of these fisheries and the Alaskan coastal communities where many of these fishermen are based.

Restrictions in the IFQ Program foster the transfer of QS among fishermen qualified to fish the annual allocations of IFQ that QS generate. These restrictions are intended to discourage excessive consolidation and the acquisition of QS by investment speculators. Persons who are not qualified to receive IFQ may receive QS by transfer, but such QS would be restricted from generating IFQ that may be used to harvest IFQ halibut or sablefish.

The Council's approved IFQ Program authorizes temporary exceptions to the transfer restrictions. In 1996, on the authority of the transfer provisions in the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery and the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish, NMFS implemented an exception to the transfer restrictions that grants temporary transfer privileges to the spouse of a deceased QS holder who

receives QS by right of survivorship, but is otherwise unqualified to harvest IFQ (61 FR 41523, August 9, 1996). The exception allows the surviving spouse who receives QS or IFQ, first, to transfer any of the current year's IFQ for the duration of the allocation year and, second, to lease the total annual allocations of IFQ resulting from the QS transferred by right of survivorship for 3 calendar years from the date of the death of the deceased holder of QS or IFQ (§ 679.41(k)(2)).

In October 1996, the IFQ Industry Implementation Team recommended a proposal to extend the survivorship transfer provisions to heirs in a deceased QS holder's immediate family, in addition to a surviving spouse. In June 1997, the Council took final action to extend the survivorship transfer provisions to any individual who receives QS by right of survivorship.

This action would benefit heirs who were not initially issued QS or who are not IFQ crew members. Without meeting those criteria, individuals who receive QS by right of survivorship would be otherwise ineligible to receive IFQ. The new provision would allow an individual who receives QS by right of survivorship to transfer, for up to 3 years, the total IFQ resulting from that QS to anyone eligible to receive IFQ and thereby obtain pecuniary benefit from the QS for that period. The Council determined that 3 years would provide an heir with adequate time to resolve permanently any issues that may arise due to receiving QS or IFQ by right of survivorship, including subsequent transfers. Upon the death of a QS or IFQ holder, the Regional Administrator, upon application for transfer, would transfer QS or IFQ to an individual who demonstrates a right of succession to such QS or IFQ, through intestate or testate succession. The Regional Administrator, upon application for transfer, would transfer, for up to 3 calendar years following the date of death of an individual QS holder, IFQ from an individual who received the originating QS through intestate or testate succession to any person eligible to receive IFQ.

This action would also correct an error in the survivorship transfer regulations that resulted from the consolidation of regulations governing the EEZ off Alaska in 61 FR 31228 (June 19, 1997). In the consolidation of the regulations, the reference to paragraph (g)(2) in § 679.41(k) should have been revised to read (h)(2). This action would make the necessary revision to correct the oversight.

Classification

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act, clarifying a requirement that has previously been approved by OMB under Control Number 0648-0272. The proposed clarification states that a death certificate is one of the forms of substantiating evidence required upon the death of a quota share holder in order to transfer that quota share to an estate. The estimated response time for providing the substantiating evidence is 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS/Alaska Region (see ADDRESSES), and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

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 displays a currently valid OMB Control Number.

The proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities:

The proposed change constitutes a minor regulatory amendment needed to extend the survivorship transfer provision (currently applicable to surviving spouses only) to heirs generally of a deceased quota share (QS) holder. This action would allow heirs who receive QS of Individual Fishing Quota (IFQ) by right of survivorship to transfer IFQ resulting from the inherited QS for 3 years from the date of the deceased QS holder's death, notwithstanding the IFQ Program's restrictions on transfers of IFQ.

This rule could potentially affect any small entity able to fish IFQ in the Alaska fisheries. Currently, 4,187 persons are eligible to fish IFQ in Alaska. Most of these are believed to be small entities. In addition, this rule could affect heirs of deceased QS holders. It is not possible to predict the extent to which such heirs might be considered small entities. Likewise, it is impossible to quantify the economic impact this proposed rule could have on small entities, because the impacts are speculative and depend on a variety of factors including the death of one or more current QS holders and the decision by one or more heirs to lease IFQ. However, to the extent that the proposed rule could impact small entities, the impact would be beneficial in that the result would be increased opportunity for leasing IFQ shares. Eligible fishermen who wanted to fish more shares would have increased opportunity to lease more shares, and heirs who otherwise would not be eligible to fish the IFQ would be able to recognize economic gain.

As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 31, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 679 is proposed to be 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.*

2. In § 679.41, paragraph (k) is revised to read as follows:

§ 679.41 Transfer of QS and IFQ

* * * * *

(k) Transfer to an heir.

(1) Upon the death of a QS or IFQ holder, the Regional Administrator, upon application for transfer, will transfer QS or IFQ to an individual who demonstrates a right of succession to such QS or IFQ, through intestate or testate succession.

(2) The Regional Administrator, upon application for transfer, will transfer, for up to 3 calendar years following the date of death of an individual QS holder, IFQ from an individual who received the originating QS through intestate or testate succession to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on the transfer of IFQ in paragraph (h)(2) of this section.

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[FR Doc. 97-29382 Filed 11-3-97; 2:24 pm]

BILLING CODE 3510-22-F