

suspended enforcement of its EEO program outreach and dissemination rules.

2. The *en banc* will feature industry professionals representing both small and large broadcasters and cable entities, academicians, as well as representatives from trade associations and the public interest sector.

3. The *en banc* is open to the public and seating will be available on a first come, first served basis. Internet users may listen to the real-time audio feed of the hearing via the Internet in Real Audio/Real Video format <http://www.fcc.gov/realaudio/>.

Federal Communications Commission.

**W. Kenneth Ferree,**

Chief, Media Bureau.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 020606142-2142-02; I.D. 041802F]

RIN 0648-AP39

#### 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:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes this rule to revise sablefish tier qualifications for the limited entry, fixed gear, primary sablefish fishery. The proposed rule would 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. lat. Setnet EFP landings would be added to the current pot (trap) and longline landings to qualify a sablefish-endorsed permit for its tier assignment. This action is intended to recognize historical sablefish landings made by current primary season participants.

**DATES:** Comments must be submitted in writing by July 24, 2002.

**ADDRESSES:** Send comments to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand

Point Way NE, Seattle, WA 98115 or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. 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.

#### 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](mailto:yvonne.dereynier@noaa.gov), [jamie.goen@noaa.gov](mailto:jamie.goen@noaa.gov); or Svein Fougner (Southwest Region, NMFS), phone: 562-980-4040; fax: 562-980-4047; and email: [svein.fougner@noaa.gov](mailto:svein.fougner@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This proposed rule is available on the Government Printing Office's website at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

NMFS is proposing this rule 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). The background and rationale for the Council's recommendation are discussed subsequently in this preamble. Additional information is available in the EA/RIR/IRFA prepared by the Council for this action. 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 3-tier proposed rule at 63 FR 19878, April 22, 1998.

##### Background

The Pacific Coast Groundfish FMP, established in 1982, directs groundfish management in Federal waters off Washington, Oregon and California. The Federal regulations at 50 CFR part 660, subpart G and the annual specifications and management measures published in the **Federal Register** implement the Pacific Coast groundfish FMP. During the last 20 years, groundfish management has been through many changes including allocations of particular stocks, season scheduling, areas fished and gears used.

Sablefish (*Anoplopoma fimbria*), also known as "blackcod," is one of the most

valuable groundfish species on the Pacific Coast. Because of its value, management decisions affecting the harvest of sablefish can be contentious. In the past, the Council has made several sablefish management decisions including allocation among different sectors of the fleet. Within the last decade, NMFS and the Council have made major changes in the allocation structure of the commercial sablefish fishery by creating a limited entry program, sablefish endorsements, and a tiered quota system.

#### Sablefish Setnet EFPs

When the FMP was implemented in 1982, the Council banned the use of setnet gear (a buoyed and anchored gillnet or trammel net) to target any groundfish, including sablefish, north of 38° N. lat. The decision, based on limited scientific data, was made primarily to reduce social conflicts over possible salmon bycatch in the groundfish setnet fisheries. In addition to the Council's concerns about salmon bycatch, the Council was concerned over the lack of information on other incidentally caught species, the ability of setnets to fish indefinitely if lost or unattended, the complications associated with adding another gear type to an already complex fishery, the fact that the fishery is heavily capitalized, and the history of conflict between mobile and fixed gears. When the Council decided to ban setnet gear for groundfish north of 38° N. lat. because of these concerns, NMFS approved the ban but also approved an EFP in that area in 1982 to collect more scientific information about the gear's operations.

The FMP specifies that EFPs may be issued to authorize fishing that would otherwise be prohibited. EFPs gather information intended to promote increased use of underutilized species, realize the expansion potential of the groundfish fishery, and increase the harvest efficiency of the fishery consistent with the Magnuson-Stevens Act and the FMP.

From 1982-1985, NMFS issued EFPs to harvest sablefish with setnet gear, including the use of setnet gear north of 38° N. lat. The purpose of setnet EFPs was to study the use of setnet gear as a possible allowable gear type under the FMP and to explore the validity of the Council's concerns in prohibiting the gear north of 38° N. lat. NMFS issued the permits to get information on the use of setnets to harvest sablefish and to evaluate gear conflicts with other fisheries, gear loss, and incidental harvest of salmon, halibut, other groundfish species, marine mammals

and birds. At the Council's March 1986 meeting, the Council recommended that NMFS not issue setnet EFPs beginning in 1986 because enough information had been gathered on setnets over the 4 years from 1982–1985 to validate their reasons for the ban on setnet gear north of 38° N lat. After considering the Council's recommendation, NMFS decided not to issue any setnet EFPs after 1985.

### Sablefish Allocation

Since 1987, the Council has allocated the annual sablefish harvest between trawl gear and nontrawl gear. In the nontrawl, or fixed gear, sector there are two operationally distinct gear types, pot (trap) and longline, that compete for the nontrawl sablefish harvest allocation. From 1987–1994, both sectors, trawl and nontrawl, continued to be open access fisheries where an unlimited number of vessels could enter the fishery.

The Council created a limited entry program (57 FR 54001, November 16, 1992) beginning in 1994 that split the commercial allocation between open access and limited entry fleets. Limited entry program qualifications were based on vessel catch histories using trawl, longline or pot gear from 1984–1988 (known as the “window period”). Qualifying requirements varied for the gear types, from 5 to 17 separate days of landing at least 500 lb (227 kg) of groundfish during the window period. Depending on landings made and gear types used, limited entry permits were issued with gear endorsements, allowing vessels to participate in the groundfish fisheries with trawl, longline or pot gear. Only trawl, longline and pot gear were eligible for gear endorsements in the limited entry program. Even though setnet gear is a stationary or “fixed gear” like longline and pot gear, NMFS and the Council did not allow setnet gear in the limited entry program because it had been prohibited in the FMP north of 38° N lat. EFP setnet landings were not a major issue when establishing the limited entry program, since most longline and pot vessels with a history in the groundfish fishery easily met the qualifying requirements at some point during the window period.

The Council first considered whether to include sablefish landings under an EFP during Council deliberations in April 1994 on Amendment 8 to the FMP. Amendment 8 was intended to create an individual quota system for West Coast sablefish and halibut. The Council-preferred alternative for Amendment 8 included EFP setnet landings as fixed gear landings, along with landings from longline and pot

gear, to count toward a vessel's fixed gear sablefish catch history. However, the Council tabled Amendment 8 in October 1994.

After Amendment 8 was tabled, the Council created Amendment 9 to restrict participation in the limited entry fixed gear fishery. In 1997, Amendment 9 to the FMP again changed the allocation structure of the fishery (62 FR 34670, June 27, 1997) by requiring that limited entry fixed gear vessels qualify for a sablefish endorsement to participate in the primary sablefish fishery. The sablefish endorsement qualifying criteria were at least 16,000 lb (7,257 kg) of Council-managed sablefish caught with longline or pot gear in any one year from 1984–1994. Again, including landings with setnet gear under the provisions of an EFP as a qualifying requirement was not an issue for sablefish endorsement applicants, since fixed gear vessels with a history of participation in the groundfish fishery easily met the low poundage requirements.

### Sablefish 3-Tier System

Over time, sablefish fleet capitalization increased and the Council needed to set ever-shorter regular seasons to control catch levels. The primary sablefish season in 1996 was only 5 days long, an intense “derby” fishery. A “derby” fishery is a short competition with no trip or cumulative landing limits. The Council considered the sablefish derby to be hazardous because it gave fishers strong incentives to stay on the ocean during bad weather, working at sea with heavy machinery and little or no sleep throughout the season. Amendment 14 (66 FR 41152, August 7, 2001) has recently eliminated the sablefish derby by extending the season to 2.5 months in 2001 and a 7 month season in 2002.

In 1998, the Council further subdivided the allocation structure of the limited entry, fixed gear, sablefish-endorsed primary sablefish fishery into 3 tiers (63 FR 38101, July 15, 1998). The 3-tier system was intended to recognize historical and more recent participation and investment in the fixed gear sablefish fishery while eliminating the traditional derby style management system.

Permit owners were divided into 3 separate tiers based on permit catch history using longline or pot gear between 1984–1994. To qualify for Tier 1, the highest tier, a permit had to be associated with at least 898,000 lb (407,326 kg) of cumulative sablefish landings. To qualify for Tier 2, a permit had to be associated with between 897,999 lb (407,326 kg) and 380,000 lb

(172,365 kg) of cumulative sablefish landings. Permits with cumulative sablefish landings below 380,000 lb (172,365 kg), but which had qualified for sablefish endorsements, were placed in Tier 3. Because the qualifying requirements for the 3-tier system ranked participants for future harvest allocation based on high cumulative landings, participants had an incentive to try to qualify for as high a tier assignment as possible in order to increase their future economic returns from the fishery.

### Setnet Landings as Tier Qualifications

After the 3-tier system was implemented in 1998, the Council realized it had overlooked the setnet issue. For the first time since Amendment 8 was tabled, a permit owner brought the setnet issue to the attention of NMFS and the Council during implementation of the 3-tier program.

NMFS notified sablefish-endorsed permit owners of their tier assignment by a “letter of qualification.” If a permit owner believed that he qualified for a different tier, he had 30 days to submit evidence to NMFS. NMFS then reviewed the evidence and issued a “letter of determination” stating whether the permit owner's tier assignment had been revised.

In this case, a permit owner challenged a tier assignment, stating that the EFP setnet landings should have been included in the fixed gear catch history as had been intended with Amendment 8. NMFS disapproved the permit owner's request because setnet landings were never considered for the 3-tier program. The permit owner then took the issue before the Council in September 1998. The Council members requested a decision package from the Council staff and the Northwest Region (Region) for the setnet issue in June 1999 but, due to the Council's and the Region's busy schedules and agenda priorities, no action was taken on the issue of including EFP setnet landings in the qualification requirements for tier assignment until the June 2001 Council meeting.

In the case of the setnet fishery north of 38° N. lat., fishing under the EFP during 1984–1985 diverted some vessels from historical participation in the pot or longline sablefish fishery. 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 a higher tier assignment.

In order to resolve this discrepancy equitably and not discourage future participation in EFPs, the Council

recommended that NMFS include EFP setnet landings from 1984–1987 in the qualifying requirements for tier assignment. However, NMFS did not issue any setnet EFPs after 1985. Therefore, NMFS proposes to 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.

#### Housekeeping Corrections to 50 CFR Part 660

NMFS proposes a technical correction to 50 CFR part 660 Subpart A, Subpart B, Subpart C, Subpart D, Subpart E, Subpart F, Subpart G, and Subpart H that would correct an outdated title of an agency official.

NMFS proposes technical corrections to the groundfish regulations at 50 CFR part 660. The first correction adds 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 updates the title of an agency official referenced in § 660.324(d) and § 660.350(b)(3). The third correction amends a cross reference in § 660.324(f), and § 660.325(d)(2) and (e)(1). These housekeeping corrections are technical amendments to the groundfish regulations and will not change the effect of the regulations on fisheries entities or resources.

#### Classification

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

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action and why it is being considered are contained in the preamble of this proposed rule and in the SUMMARY section of the preamble. A summary of the analysis on the proposed action (preferred alternative follows):

A fish harvesting business is considered a small entity by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.5 million. All of the permit owners and vessels in the Pacific Coast limited entry, fixed gear fleet are considered small entities under SBA standards. All 164 limited entry, fixed gear, sablefish-

endorsed permits in the fleet are owned by small entities.

Of the 499 limited entry permits in the West Coast groundfish fishery, 164 permits have fixed gear, sablefish endorsements. Among those 164 sablefish-endorsed permits, 2 participated in the setnet EFP for sablefish between 1984–1985. By including setnet landings in the qualifying requirements for tier assignments, 1 of these permits is expected to move up from Tier 2 to Tier 1. Tier 1 has the highest sablefish landing limits of the three tiers. The other permit associated with a vessel that participated in the 1984–1985 setnet EFP fisheries already has a Tier 1 assignment. This proposed rule will not allow new entrants to qualify for the limited entry program or sablefish endorsements. Nor will it change the allocation of the sablefish optimum yield (OY) among the fishery sectors, including the limited entry fixed gear sablefish-endorsed fleet. What will change is the amount of the limited entry fixed gear sablefish-endorsed fleet's OY that each permit in the tier system receives, due to a change in the number of permits in each tier.

Based on expected cumulative limits for 2001 and average prices from 2000, moving 1 permit from Tier 2 up to Tier 1 will increase that permit's cumulative primary sablefish limit by 120 percent and increase the sablefish ex-vessel value for the permit an additional \$51,942. Consequently, the limits for all other 163 tiered permits will decrease by 0.76 percent. The projected change in ex-vessel value of landed sablefish from a 0.76 percent decrease in permit limits are decreases of \$737 for each of the 27 Tier 1 permits, \$335 for each of the 42 Tier 2 permits and \$191 for each of the 94 Tier 3 permits. Overall, the change in permit value due to this proposed rule is expected to be minimal.

In addition, the effect on private sector efficiency is not likely to be significant. Over the long term, in the 3-tier permit stacking system, like individual transferable quotas, permit owners will likely have a tendency to transfer permits to more efficient producers, thus absorbing the inefficiency, if any, that results from one permit shifting tiers. For the public sector, no effect is expected on enforcement and administrative costs, beyond the effort required to make the change in the regulations and alter the tier designations in the data system.

This proposed rule is intended to recognize historical sablefish landings made by current primary season participants. Because of an oversight in qualification criteria during

implementation of the 3-tier program, the 163 permit owners actually have been experiencing benefits from inflated gross revenues for the past 3 years that the program has been in place. The action proposed would equitably distribute the limited entry, fixed gear sablefish-endorsed permit allocation. This proposed rule is also intended to encourage participation in future EFPs by including setnet EFP landings in qualifying requirements for tier limits at a time when some fishers participated in a setnet EFP rather than participating in a regular commercial fishery.

The intermediate alternatives the Council considered but didn't analyze were not reasonable in that there was no rationale behind why they were created. For example, one of the intermediate options was a temporary higher tier. The Council could not come up with a reason why they would consider a temporary higher tier, given that the tier system had been in place since 1998. Temporary regulations or tiers are generally put in place as a way of reducing the negative effects to small businesses of regulatory changes. It doesn't make sense to create a temporary tier in a tier system that is already in place and in which there will be no new entrants. 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, which is part of what this proposed rule is trying to alleviate. Therefore, the intermediate alternative of a temporary higher tier does not address the purpose and need of the proposed action.

A copy of this analysis is available from the Council (*see ADDRESSES*).

#### 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: June 18, 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 proposed to be 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.*

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 paragraph (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, SFD will accept applications for a tier change through December 31, 2002. Paragraph (d)(2)(iii) of this section sets out the relevant evidentiary standards and burden of proof.

(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 revised tier assignment certificate once the initial certificate 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 in 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.

\* \* \* \* \*

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 holdership, 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 the 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.

\* \* \* \* \*

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 ((a), (b), (c), (e), and (f)(2);
- c. Section 660.15, (e) and (j);
- d. Section 660.17 (a), (c), (d), (e), (e)2, (e)(4) and (k);
- e. Section 660.21 (k), (k)(1), (k)(2), and (k)(3) and (k)(4);
- f. Section 660.23 (a) and (b);
- g. Section 660.27 (e), (f)(1), (f)(2), and (f)(2)(i);
- h. Section 660.28 (b), (g), (h), (h)(i)(1), and (h)(2)(ii);
- i. Section 660.31 (c)(2) and (d)(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 324 (d);
- x. Section 660.339;
- y. Section 660.402;
- z. Section 660.409 (a)(1) and (b)(1);
- aa. Section 660.411 (c).

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