

§ 660.335

50 CFR Ch. VI (10–1–07 Edition)

for the sablefish at-sea processing exemption in the FEDERAL REGISTER.

(iii) If a permit and/or vessel owner chooses to file an appeal of the determination under paragraph (e)(3)(ii) of this section, the appeal must be filed with the Regional Administrator within 30 calendar 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 vessel qualifies for a sablefish at-sea processing exemption. The appeal of a denial of an application for a sablefish at-sea processing exemption will not be referred to the Council for a recommendation, nor will any appeals be accepted by SFD after September 1, 2006.

(iv) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 calendar 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) *Evidence and burden of proof.* A permit and/or vessel owner applying for issuance of a sablefish at-sea processing exemption has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(i) A certified copy of the current vessel document (USCG or state) is the best evidence of vessel ownership and LOA.

(ii) A certified copy of a state fish receiving ticket is the best evidence of a landing, and of the type of gear used.

(iii) A copy of a written receipt indicating the name of their buyer, the date, and a description of the product form and the amount of sablefish landed is the best evidence of the commercial transfer of frozen sablefish product.

(iv) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(f) *Endorsement and exemption restrictions.* "A" endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments may not be

transferred separately from the limited entry permit. Sablefish at-sea processing exemptions are associated with the vessel and not with the limited entry permit and may not be transferred at all.

[66 FR 40919, Aug. 6, 2001, as amended at 66 FR 41158, Aug. 7, 2001; 67 FR 65905, Oct. 29, 2002; 69 FR 42351, July 15, 2004; 69 FR 57881, Sept. 28, 2004; 71 FR 10621, Mar. 2, 2006]

**§ 660.335 Limited entry permits—renewal, combination, stacking, change of permit ownership or permit holdership, and transfer.**

(a) *Renewal of limited entry permits and gear endorsements—*(1) Limited entry permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in force the following year.

(2) Notification to renew limited entry permits will be issued by SFD prior to September 1 each year to the most recent address of the permit owner. The permit owner shall provide SFD with notice of any address change within 15 days of the change.

(3) Limited entry permit renewal requests received in SFD between November 30 and December 31 will be effective on the date that the renewal is approved. A limited entry permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by March 31 of the following year and the SFD determines that failure to renew was proximately caused by illness, injury, or death of the permit owner.

(4) Limited entry permits with sablefish endorsements, as described at § 660.334(d), will not be renewed until SFD has received complete documentation of permit ownership as required under § 660.334(d)(4)(iv).

(b) *Combining limited entry permits.* Two or more limited entry permits with "A" gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement as described in paragraph § 660.334(c)(2)(iii). With respect to permits endorsed for nontrawl limited entry gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish

endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landings limit of the permits being combined.

(c) *Stacking limited entry permits.* “Stacking” limited entry permits, as defined at § 660.302, refers to the practice of registering more than one permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be stacked. Up to 3 limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at § 660.372. Privileges, responsibilities, and restrictions associated with stacking permits to participate in the primary sablefish fishery are described at § 660.372 and at § 660.334(d).

(d) *Changes in permit ownership and permit holder—(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). Change in permit owner and/or permit holder applications must be submitted to SFD with the appropriate documentation described at § 660.335(g).

(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 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.

(3) *Sablefish-endorsed permits.* Beginning January 1, 2007, if a permit owner submits an application to transfer a sablefish-endorsed limited entry permit to a new permit owner or holder (transferee) during the primary sablefish season described at § 660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary

season sablefish landed against that permit as of the application signature date for the then current primary season. The transferee must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at § 660.303(c), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(e) *Changes in vessel registration-transfer of limited entry permits and gear endorsements—(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 § 660.335(g). 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. Applications to transfer limited entry permits with sablefish endorsements, as described at § 660.334(d), will not be approved until SFD has received complete documentation of permit ownership as required under § 660.334(d)(4)(iv).

(2) *Application.* A complete application must be submitted to SFD in order for SFD to review and approve a change in vessel registration. At a minimum, a permit owner seeking to transfer a limited entry permit shall submit to SFD a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to participate. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until

the succeeding cumulative limit period. SFD will not approve a change in vessel registration (transfer) until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

(3) *Effective date.* Changes in vessel registration on permits will take effect no sooner than the first day of the next major limited entry cumulative limit period following the date that SFD receives the signed permit transfer form and the original limited entry permit. No transfer is effective until the limited entry permit has been reissued as registered with the new vessel.

(4) *Sablefish-endorsed permits.* Beginning January 1, 2007, if a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new vessel during the primary sablefish season described at § 660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or holder (transferee) associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at § 660.303(c), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(f) *Restriction on frequency of transfers.* Limited entry permits may not be registered for use with a different vessel (transfer) more than once per calendar year, except in cases of death of a permit holder or if the permitted vessel is totally lost as defined in 660.302. The exception for death of a permit holder

applies for a permit held by a partnership or a corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies.

(1) A permit owner may designate the vessel registration for a permit as “unidentified”, meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as “unidentified.”

(2) When a permit owner requests that the permit’s vessel registration be designated as “unidentified,” the transaction is not considered a “transfer” for purposes of this section. Any subsequent request by a permit owner to change from the “unidentified” status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration (transfer) and subject to the restriction on frequency and timing of changes in vessel registration (transfer).

(3) Any transfer of a trawl-endorsed limited entry permit that occurred between December 31, 2006, and May 14, 2007 may be rescinded by the permit owner without counting against that permit owner’s once per calendar year restriction on frequency of permit transfers for the 2007 calendar year.

(g) Application and supplemental documentation. Permit holders may request a transfer (change in vessel registration) and/or change in permit ownership or permit holder by submitting a complete application form. In addition, a permit owner applying for renewal, replacement, transfer, or change of ownership or change of permit holder 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 (or pot) gear applying for a tier assignment under § 660.334 (d) has the burden to submit evidence to prove that certain qualification requirements are met. The following evidentiary standards apply:

(1) For a request to change a vessel registration and/or change in permit ownership or permit holder, the permit owner must provide SFD with a current copy of the USCG Form 1270 for

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vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons.

(2) For a request to change a vessel registration and/or change in permit ownership or permit holder for sablefish-endorsed permits with a tier assignment for which a corporation or partnership is listed as permit owner and/or holder, an Identification of Ownership Interest Form must be completed and included with the application form.

(3) For a request to change the vessel registration to a permit, the permit holder must submit to SFD a current marine survey conducted by a certified marine surveyor in accordance with USCG regulations to authenticate the length overall of the vessel being newly registered with the permit. Marine surveys older than 3 years at the time of the request for change in vessel registration will not be considered "current" marine surveys for purposes of this requirement.

(4) For a request to change a permit's ownership where the current permit owner is a corporation, partnership or other business entity, the applicant must provide to SFD a corporate resolution that authorizes the conveyance of the permit to a new owner and which authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, other business entity.

(5) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), the individual(s) requesting conveyance of the permit to a new owner must provide SFD with a death certificate of the permit owner(s) and appropriate legal documentation that either: specifically transfers the permit to a designated individual(s); or, provides legal authority to the transferor to convey the permit ownership.

(6) For a request to change a permit's ownership that is necessitated by divorce, the individual requesting the change in permit ownership must submit an executed divorce decree that awards the permit to a designated individual(s).

(7) Such other relevant, credible documentation as the applicant may submit, or the SFD or Regional Adminis-

trator may request or acquire, may also be considered.

(h) *Application forms available.* Application forms for the change in vessel registration (transfer) and change of permit ownership or permit holder of limited entry permits are available from the SFD (see part 600 for address of the Regional Administrator). Contents of the application, and required supporting documentation, are specified in the application form.

(i) *Records maintenance.* The SFD will maintain records of all limited entry permits that have been issued, renewed, transferred, registered, or replaced.

[66 FR 40921, Aug. 6, 2001, as amended at 66 FR 41158, Aug. 7, 2001; 67 FR 65906, Oct. 29, 2002; 69 FR 11124, Mar. 9, 2004; 69 FR 42351, July 15, 2004; 71 FR 10623, Mar. 2, 2006; 72 FR 27764, May 17, 2007]

### §§ 660.336–660.337 [Reserved]

### § 660.338 Limited entry permits-small fleet.

(a) Small limited entry fisheries fleets that are controlled by a local government, are in existence as of July 11, 1991, and have negligible impacts on the groundfish resource, may be certified as consistent with the goals and objectives of the limited entry program and incorporated into the limited entry fishery. Permits issued under this subsection will be issued in accordance with the standards and procedures set out in the PCGFMP and will carry the rights explained therein.

(b) A permit issued under this section may be registered only to another vessel that will continue to operate in the same certified small fleet, provided that the total number of vessels in the fleet does not increase. A vessel may not use a small fleet limited entry permit for participation in the limited entry fishery outside of authorized activities of the small fleet for which that permit and vessel have been designated.

[66 FR 40922, Aug. 6, 2001]

### § 660.339 Limited entry permit fees.

The Regional Administrator will charge fees to cover administrative expenses related to issuance of limited entry permits, including initial