

Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further

environmental documentation, because we are establishing a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. From 6 a.m. April 18, 2002 through 6 p.m. May 1, 2002, add new § 165.T11-041 to read as follows:

##### **§ 165.T11-041 Safety Zone: Colorado River between Yuma, Arizona and Blythe, California.**

(a) *Location.* The safety zone consists of the navigable waters of the Colorado River, between Yuma, Arizona and Blythe, California, enclosed by a 400-yard radius of the following coordinate: 33°22'49" N and 114°42'22" W.

(b) *Effective Dates.* This safety zone will be enforced from 6 a.m. to 6 p.m. (MST) on the following dates: April 18 through 19, April 22 through 26, April 29 through 30, 2002 and May 1, 2002. If the event concludes prior to the scheduled termination time, the United States Marine Corps, La Paz County Sheriff or Imperial County Sheriff will cease enforcement of this safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander, Captain Callanan, USMC, who may be contacted via cell phone at (909) 763-0066.

Dated: April 9, 2002.

**S.P. Metruck,**

*Commander, U.S. Coast Guard, Captain of the Port, San Diego.*

[FR Doc. 02-10469 Filed 4-26-02; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 26

[WT Docket No. 00-32; FCC 02-47]

### The 4.9 GHz Band Transferred From Federal Government Use

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This document delays the effective date of the Second Report and Order, published April 9, 2002, (67 FR 17009) from May 9, 2002 to May 13, 2002. The Second Report and Order allocated 50 megahertz of spectrum in the 4940-4990 band (4.9 GHz band) for fixed and mobile services (except aeronautical mobile service) and designated this band for use in support of public safety. Due to unforeseen delays in the **Federal Register** publication of a final action that also revised page 55 of the Table of Frequency Allocations, 47 CFR 2.106, the Commission has determined that the effective date of the Second Report and Order must be delayed from May 9, 2002 to May 13, 2002. This action will allow page 55 to be printed in the correct sequence.

**DATES:** The effective date for the Second Report and Order amending 47 CFR parts 2 and 26, published April 9, 2002, 67 FR 17009, is delayed until May 13, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Genevieve Augustin, Esq., [guagusti@fcc.gov](mailto:guagusti@fcc.gov), Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** The Commission adopted a *Second Report and Order*, WT Docket No. 00-32, FCC 02-47, on February 14, 2002, and released on February 27, 2002. An effective date of May 9, 2002, was set by the Commission, 67 FR 17009, April 9, 2002. The Second Report and Order allocated 50 megahertz of spectrum in the 4940-4990 MHz band (4.9 GHz band) for fixed and mobile services (except aeronautical mobile service) and designates this band for use in support of public safety. The allocation and designation provide Public safety users with additional spectrum to support new broadband applications. This document delays that effective date from May 9, 2002, until May 13, 2002.

**List of Subjects****47 CFR Part 2**

Communications equipment, Radio.

**47 CFR Part 26**

Communications common carriers, Radio.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 010823213–2078–02; I.D. 071701C]

RIN 0648-AK70

**Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement Amendment 54 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Amendment 54 to the FMP for Groundfish of the Gulf of Alaska (Amendments 54/54), and an amendment to the Pacific halibut commercial fishery regulations for waters in and off Alaska. These amendments make three changes in the Individual Fishing Quota (IFQ) Program to: (1) Allow a quota share (QS) holder's indirect ownership or affiliation to a vessel, through corporate or other collective ties, to substitute for vessel ownership in the QS holder's own name for purposes of hiring a skipper to fish the QS holder's IFQ; (2) revise the definition of "a change in the corporation or partnership" to include language that explicitly specifies the point at which estates holding initial allocations of QS must transfer the QS to a qualified individual; and (3) revise sablefish use limits to be expressed in QS units rather than as percentages of the QS pool. This action is intended to improve the effectiveness of the IFQ Program and is necessary to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the

Northern Pacific Halibut Act of 1982 (Halibut Act) with respect to the IFQ fisheries.

**DATES:** DATES: Effective May 29, 2002.

**ADDRESSES:** Copies of Amendments 54/54, the Regulatory Impact Review and the Initial Regulatory Flexibility Analysis (IRFA), and Final Regulatory Flexibility Analysis (FRFA) prepared for this final rule may be obtained from Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel-Duvall.

**FOR FURTHER INFORMATION CONTACT:**

Glenn Merrill, 907–586–7228 or email at glenn.merrill@noaa.gov.

**SUPPLEMENTARY INFORMATION:****Background**

The IFQ Program, a limited access management system for the fixed gear Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fisheries off Alaska, was approved by NMFS in January 1993, and fully implemented beginning in March 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding QS in specific management regions. The IFQ Program for the sablefish fishery is implemented by the FMPs and Federal regulations under authority of the Magnuson-Stevens Act. The IFQ Program for the halibut fishery is implemented by Federal regulations under the authority of the Halibut Act.

A detailed discussion providing specific examples of the effect of this final rule on the IFQ Program may be found in the preamble to the proposed rule, published October 12, 2001 (66 FR 52090).

**Indirect Vessel Ownership**

The IFQ Program contains a number of provisions designed to promote an owner-operator IFQ fishing fleet. An exception to the owner-operator provisions allows initial recipients of category B, C, or D (catcher vessel) QS (hereafter QS holder) to hire a skipper to fish the IFQ derived from the QS, provided the QS holder owns at least 20 percent of the vessel on which the IFQ is being used to fish for IFQ species. This final rule will allow a QS holder to substitute indirect ownership of a vessel through corporate or other ties for direct vessel ownership by the QS holder for purposes of hiring a skipper to fish the QS holder's IFQ. This final rule also will allow corporate QS holders to employ a hired skipper on a vessel owned by a shareholder in the corporation. The purpose of this action

is to revise IFQ Program regulations to explicitly reflect management practices that have been in effect since the IFQ Program started in 1995.

This final rule allows a QS holder to continue to hire a skipper through a corporation or partnership provided that certain minimum levels of vessel ownership are maintained by an individual QS holder who is a shareholder in a corporation or a partner in a partnership. Existing regulations require an individual QS holder to maintain a minimum of 20-percent ownership interest in the vessel (see 64 FR 24960, May 10, 1999). These regulations prevent a QS holder from employing a hired skipper unless the QS holder directly owns at least 20 percent of the vessel on which the hired skipper will fish the QS holder's IFQ.

This final rule extends the 20-percent ownership standard to QS holders who indirectly own a vessel through a corporation, partnership, or other entity. For example, a QS holder who is a shareholder in a corporation will be allowed to employ a hired skipper to fish his or her IFQ aboard a vessel wholly owned by that corporation provided that the QS holder had at least 20-percent ownership in the corporation that owns the vessel. This means a QS holder can meet the 20-percent minimum ownership standard indirectly as a shareholder of a corporation, a partner in a partnership, or a member of another entity. However, this final rule prevents a QS holder from employing hired skippers through corporations in which they are nominal shareholders.

Minimum ownership interest is determined by multiplying the percentage of ownership that a QS holder has in a corporation, partnership, or other entity by the percentage of ownership that a corporation, partnership, or other entity has in the vessel on which a hired skipper is employed. This final rule codifies the existing management policy and methodology currently used by NMFS to determine the ownership interest a QS holder has in a vessel. The following are two examples of how this final rule will be implemented:

Example 1: A QS holder owns 20 percent of a corporation and that corporation wholly owns a vessel. That QS holder would be allowed to employ a hired skipper aboard the vessel owned by the corporation because 20-percent ownership interest in the corporation multiplied by a 100-percent corporate ownership in the vessel equals a 20-percent ownership interest by the QS holder in the vessel. (0.2 X 1.0 = 0.2 or 20 percent)

Example 2: A QS holder owns 50 percent of a corporation and that corporation owns 30 percent of a vessel. That QS holder would