

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 10/31/2007

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Barry West
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 07/03/2007

ACTION REQUESTED: New collection (Request for a new OMB Control Number)
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200706-0648-005
AGENCY ICR TRACKING NUMBER:
TITLE: Medical Transfer for Pacific Halibut and Sablefish Individual Fishing Quotas (IFQs)
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0569

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 10/31/2010

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	0	0	0
New	3,098	3,339	3,210
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	3,098	3,339	3,210
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official:

Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Medical Transfer Application	NA	Application for medical transfer of IFQ	
Medical Transfer Application Letter of Appeal			50 CFR 679
Quota share holder ownership documentation			50 CFR 679

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
MEDICAL TRANSFER FOR PACIFIC HALIBUT AND SABLEFISH
INDIVIDUAL FISHING QUOTAS
OMB CONTROL NO.: 0648-xxxx**

INTRODUCTION

The U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI) in the exclusive economic zone (EEZ) off the coast of Alaska are managed by National Marine Fisheries Service (NMFS) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act ([Magnuson-Stevens Act](#)), 16 U.S.C. 1801 *et seq.* The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and the Fishery Management Plan for Groundfish of the Gulf of Alaska were prepared by the North Pacific Fishery Management Council (Council) and are implemented by regulations at [50 CFR part 679](#). The domestic fishery for Pacific halibut off Alaska is managed by the International Pacific Halibut Commission as provided by the [Northern Pacific Halibut Act of 1982](#), 16 U.S.C. 773, *et seq.*

The Individual Fishing Quota (IFQ) Program provides management measures for the commercial fisheries that use fixed gear to harvest sablefish and Pacific halibut. The IFQ Program limits access to the Pacific halibut and sablefish, and crab fisheries to those persons holding quota share in specific management areas.

Since the initial implementation of the Pacific halibut and sablefish IFQ programs in 1995, individuals have submitted numerous petitions to NMFS and the Council requesting the temporary transfer of IFQs for medical reasons. These individuals sought medical transfers due to the inability of IFQ holders to physically be aboard the vessel as IFQs were fished. NMFS was previously unable to implement a medical transfer program recommended by the Council due to legal constraints. The approach provided in this action would resolve the legal issues resulting from previous approaches.

This action adds the option to obtain a Medical Transfer (MT) to the IFQ Program. This collection will be integrated into the IFQ Program collection, Office of Management and Budget (OMB) Control No.: 0648-0272.

Current regulations require catcher vessel quota share (QS) holders to be aboard the vessel during harvest and offloading of IFQ species with two exceptions. One exception occurs under limited circumstances when initial recipients of QS qualify to use hired masters. The second exception is when a QS holder experiences an emergency while at sea. QS holders who experience a short-term medical condition that prevents them from fishing their IFQs have no ability to temporarily transfer those IFQs. Despite a prohibitive medical condition, QS holders generally must be aboard the vessel when fishing their QS. In the event of an injury or illness, fishermen who may not hire a master must either divest their QS or forego the economic benefits of their QS until they recover.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

Final Rule RIN 0648-AS84 (rule identification number) modifies the IFQ Program for the fixed-gear commercial Pacific halibut fishery and sablefish fishery by revising regulations specific to those fisheries. 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. Of the many items described in the final rule, two required Paperwork Reduction Act (PRA) clearance that could not be submitted under the IFQ Program collection (OMB Control No.: 0648-0272) because a different revision to that collection is currently open for OMB approval. The provisions submitted within this action clarify who may seek a medical transfer provision of catcher vessel QS under § 679.42(d) and clarify the specific documentation that a QS holder must submit to NMFS to prove the QS holder's minimum 20 percent ownership in the vessel from which a hired master will fish the QS.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

a. Application for Medical Transfer (MT)

Emergency waivers and medical transfers are described at § 679.42(d). The person authorized to fish IFQ halibut or sablefish must be aboard the vessel during fishing operations and must sign the IFQ landing report except as provided in § 679.41 and under the following circumstances:

Emergency waiver.

In the event of extreme personal emergency during a fishing trip involving a person authorized to fish IFQ halibut or sablefish, the requirements at 679.42(c)(1) may be waived. The waiving of these requirements under this provision shall apply to IFQ halibut or IFQ sablefish retained on the fishing trip during which the emergency occurred.

Medical transfers.

In the event of a medical condition affecting a QS holder or an immediate family member of a QS holder that prevents the QS holder from being able to participate in the halibut or sablefish IFQ fisheries, a medical transfer may be approved for the IFQ derived from the QS held by the person affected by the medical condition.

A medical transfer will be approved if the QS holder demonstrates that:

He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition that precludes participation by the QS holder; or

He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition involving an immediate family member that requires the QS holder's full time attendance.

To be eligible to receive an MT, an individual Pacific halibut or sablefish QS holder must possess one or more catcher vessel IFQ permits and must not qualify for a hired master exception under § 679.41(i)(1). An individual may apply for an MT by submitting a medical transfer application to NMFS, Alaska Region. If NMFS denies an application for an MT, the applicant may appeal the denial according to existing appeal procedures found at § 679.43. A QS or IFQ holder who has received an approved MT from NMFS may transfer his or her annual IFQ permit to an individual eligible to receive QS or IFQ.

An MT shall be valid only during the calendar year for which the permit is issued. NMFS will not approve subsequent applications for MTs based on the same medical condition unless the medical professional attests to a reasonable likelihood of recovery. NMFS will not approve an MT if the applicant has received an MT in any 2 of the previous 5 years for the same medical condition.

To obtain a medical transfer, an applicant would document his or her medical condition by submitting an MT application and attaching a medical professional's affidavit. This affidavit would describe the medical condition affecting the applicant and attest to the applicant's inability to participate in the IFQ fisheries. In the case of a medical condition involving a family member, the medical professional's affidavit would describe the necessity for the IFQ permit holder to tend to an immediate family member who suffers from the medical condition.

A medical transfer application may be obtained at www.fakr.noaa.gov or by calling 1-800-304-4846. Completed applications must be mailed to:

NMFS, Alaska Region
Restricted Access Management Program
P.O. Box 21668
Juneau, AK 99802-1668

This action could directly affect 3,349 halibut QS holders and 874 sablefish QS holders. Approximately 12 QS holders contact NMFS or the Council each year for information about medical transfers in the IFQ Program. However, it is not possible to estimate how many QS holders did not contact NMFS or the Council, but would have requested a medical transfer if it were available. For the purpose of this analysis, 5 percent of the total QS holders (211) will be used.

The information requested in Block A is needed to determine eligibility of the 2 parties for the transfer to take place. Block B is merely a checklist and is included as a guide to ensure all items are included with the application. Block C information is needed to identify the person applying for the MT and his or her eligibility. Block D information is needed to identify the person receiving the MT transfer and his or her eligibility. Block E information is needed to identify the IFQ to be transferred. Blocks F and G information are needed to provide background information on the transfer. Block H information is needed to authenticate the medical emergency.

Blocks I and J information are need for certification of the individuals involved in the transfer. The IFQ Program was implemented to both maintain rigorous safeguards on use of fishing privileges for a public resource and to provide safeguards for program constituents. Use of notarized signatures is the best way for NMFS to ensure that only authorized persons are granted privileges so that NMFS may act in certainty with requests for program services or commercial transactions (for transfers). By employing this widely accepted means of unequivocally establishing the identity of submitters, this requirement removes ambiguity about whether constituents have specific knowledge of the terms and conditions of requested benefits.

Application for Medical Transfer (MT)

Block A

Indicate (YES or NO) whether Transferee (No Medical Condition) holds a Transfer Eligibility Certificate
Indicate (YES or NO) whether Transferor (Medical Condition) qualifies for a hired master exception under
50 CFR 679.42(i)(1)

Block B – Attachments

Completed, signed, and notarized application
Copy of permit or QS Certificate
Declaration from certified medical professional

Block C – Transferor information (medical condition)

Full name, NMFS person ID, and date of birth
Permanent business mailing, telephone number, FAX number, and e-mail address (if any)
Temporary mailing address may be provided, if appropriate

Block D -- Transferee (no medical condition)

Full name, NMFS person ID, and date of birth
Permanent business mailing address, telephone number, FAX number, and email address (if any)
Temporary mailing address may be provided, if appropriate

Block E – Identification of IFQ to be transferred

Whether the transfer is for Pacific halibut or sablefish IFQ
IFQ regulatory area
Number of units
Range of serial numbers for IFQ to be transferred
Actual number of IFQ pounds
Transferor (seller) IFQ permit number
Fishing year

Block F – Transferor supplemental information

Price per pound (including leases)
Total amount paid for the IFQ in the requested transaction including all fees
Primary source of financing for the transfer

Block G – Transferee supplemental information

Indicate how the IFQ was located (check one)
Indicate transferee's (buyer's) relationship to the transferor (seller) (check all that apply)

Block H – Medical declaration

(to be completed by a licensed medical doctor, advanced nurse practitioner, or primary community health aide)

Medical professional's full name
Business telephone, permanent business mailing address (number and street, city and state, zip code)
Type of medical professional
Description of the medical condition of applicant or affected family member
Documentation of the medical condition and a description of the care required
Signature and date signed of the medical professional

Block I – Certification of transferor (seller)

Signature, printed name, and date signed of transferor
Signature, seal or attest, and commission expiration date of a notary public
If authorized agent, attach authorization.

Block J – Certification of transferee (buyer)

Signature, printed name, and date signed of transferee

Signature, seal or attest, and commission expiration date of a notary public.
 If authorized agent, attach authorization

Medical Transfer Application, Respondent	
Estimated number of respondents	211
Total annual responses	211
Number of responses per year = 1	
Total Time burden	422
Time requirement per response = 2 hr	
Total personnel cost	\$10,550
Cost per hour = \$25	
Total miscellaneous cost	\$1,163
Postage (0.41 x 211 = 86.51)	
Photocopy (0.05 x 2 x 211 = 21.10)	
Notary (\$5 x 211 = 1055)	

Medical Transfer Application, Federal Government	
Total annual responses	211
Total Time burden	105
Time requirement per response (30 min/60 min = 0.5)	
Total personnel cost	\$2,625
Cost per hour = \$25	
Total miscellaneous cost	0

b. Letter of Appeal

The Regional Administrator will evaluate each MT application. An applicant who fails to submit the information specified in the MT application will be provided a reasonable opportunity to submit the specified information or submit a revised application. The Regional Administrator will prepare and send an Initial Administrative Determination (IAD) to the applicant if it is determined that the applicant failed to submit the specified information or a revised application. The IAD will indicate any deficiencies with the information provided or with the revised application.

An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43. For purposes of this analysis, 5 percent of those participants filing an MT are estimated to file a letter of appeal.

Letter of Appeal, Respondent	
Estimated number of respondents	10
Total annual responses	10
Number of responses per year = 1	
Total Time burden	40 hr
Time requirement per response = 4 hr	
Total personnel cost	\$1,000
Cost per hour = \$25	
Total miscellaneous cost	\$4
Postage (0.41 x 10= 4.10)	
Photocopy (0.10 x 2 = 0.20)	

Letter of Appeal, Federal Government	
Total annual responses	10
Total Time burden	
Time requirement for each appeal = 4 hr	40
Total personnel cost	\$1,000
Cost per hour = \$100	
Total miscellaneous cost	0

c. Ownership Documentation

The requirement for catcher vessel QS holders to be aboard the vessel during harvest and offloading of IFQ species (§ 679.42(i)) constitutes a key element of the halibut and sablefish IFQ Program. The Council remains concerned about alleged abuses of the regulatory provision allowing vessel owners who received QS as initial allocation to hire masters to harvest their IFQs without being onboard the vessel. Specifically, the final rule replaces the phrase “written documentation” with specific documentation that a QS holder must submit to prove the required ownership of the vessel if that vessel will use a hired master.

For documented vessels. The QS holder must submit an Abstract of Title for a documented vessel showing the required 20 percent minimum ownership interest (or other percentage, if applicable).

For undocumented vessels. The QS holder must submit a State of Alaska registration or license for undocumented vessels.

In both cases, other written documentation may be required to prove the required percentage ownership interest. This action supports the Council’s objective of encouraging an owner-operator fishery. The Council adopted the documentation requirement out of concern that some vessel owners were abusing the hired skipper provision through the use of informal, unverifiable transactions. The Council was also responding to NMFS staff reports that, under the prior regulation, it had been difficult to verify the minimum 20 percent vessel ownership. This action would accomplish the objective of tightening the documentation procedures so as to successfully enforce the regulations.

This action would directly regulate holders of halibut QS blocks in all IFQ areas. There are 3,205 persons, both individual and collective entities, who hold at least one block of halibut QS. Eighty to ninety percent of QS holders hold at least one block in each regulatory area except for Area 4A. The submittal requirement of written documentation has been part of the regulations for some time. However, NMFS does not have sufficient ownership and affiliation information to determine precisely the number of directly regulated entities in the IFQ Program that would be impacted by this action. Therefore, the number of respondents last reported for the IFQ program will be used for this analysis.

Ownership Documentation, Respondent	
Estimated number of respondents	2877
Total annual responses	2877
Number of responses per year = 1	
Total Time burden	2877 hr
Time requirement per response = 1 hr	
Total personnel cost	\$71925
Cost per hour = \$25	
Total miscellaneous cost	\$2043
Postage (0.41 x 2877= 1179.57)	
Photocopy (0.10 x 3 x 2877 = 863.10)	

Ownership Documentation, Federal Government	
Total annual responses	2877
Total Time burden	
Time requirement for each response = 1 hr	2877
Total personnel cost	\$71925
Cost per hour = \$25	
Total miscellaneous cost	0

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

A “fillable” application for a medical transfer of IFQ is available at the NMFS Alaska Region Home Page at www.fakr.noaa.gov, for the participant to download and print, and mail or deliver to NMFS. The letter of appeal and the ownership documentation must be mailed.

4. Describe efforts to identify duplication.

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection of information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Three documents are described in this collection: (1) medical transfer and (2) associated appeal, and (3) ownership documentation requirement. The medical transfer and associated appeal procedure were requested repeatedly by IFQ Program participants through the years. This action would relieve the difficulties for those participants dealing with a medical condition. Because this action is intended to benefit the fishing industry with medical conditions, the real consequence of not conducting this program would be negative for the fishing industry.

The requirement for catcher vessel QS holders to be onboard the vessel during harvest and offloading of IFQ species constitutes a key element of the halibut and sablefish IFQ Program. Responding to alleged abuses of the regulatory provision allowing vessel owners who received QS as initial allocation to hire masters to harvest their IFQs without being onboard the vessel, this action specifies the documentation that a QS holder must submit. Current regulations do not specify the documents needed to demonstrate percentage of vessel ownership and, therefore, the requirement is difficult to monitor, verify, or enforce.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No inconsistencies occur in this collection

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The NMFS Alaska Region submitted a proposed rule, RIN 0648-AS84, requesting comments from the public.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

With the exception of the medical information, the information collected is confidential under section 303(d) of the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.); and also under NOAA Administrative Order (AO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics. The medical information is confidential and protected under the Privacy Act. The Alaska Region Permits System of Records (NOAA #17) notice, published in the Federal

Register on 03/03/2005, will be updated to include the collection of medical information for this purpose.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not involve information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Estimated total respondents: 2,877. Estimated total responses: 3,098. Estimated total burden hours: 3,339. Estimated total personnel costs: \$83,475. Personnel labor costs are estimated to the average wage equivalent to a GS-9 employee in Alaska, including Cost-of-Living Adjustment (COLA), at \$25 per hour.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Estimated total miscellaneous costs: \$3,210.

14. Provide estimates of annualized cost to the Federal government.

Estimated total burden hours: 3,022 hr. Estimated total personnel costs: \$75,550. Estimated total miscellaneous costs: \$0.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

The medical transfer and associated appeal and ownership documentation are part of a new program that will be integrated into OMB Control No.: 0648-0272.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.



In accordance with OMB requirements, the control number and the expiration date of OMB approval are shown on the MT application. If an appeal is filed, no form exists. The submittal of ownership documentation does not involve a form.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

In accordance with OMB requirements, the certification statement is shown on the MT application. If an appeal is filed, no form exists. The submittal of ownership documentation does not involve a form.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

	<p>APPLICATION FOR MEDICAL TRANSFER OF IFQ</p>	<p>U.S. Dept. of Commerce/NOAA National Marine Fisheries Service Restricted Access Management P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free / 586-7202 in Juneau (907) 586-7354 fax</p>	
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NOTE: A separate application must be submitted for each IFQ Medical Transfer (MT). Medical Transfers will remain in effect only for the calendar year of the transfer.

BLOCK A

Does the Transferee (No Medical Condition) hold a Transfer Eligibility Certificate (TEC)?

Yes [] No []

Does the Transferor (Medical Condition) qualify for a hired master exception under 50 CFR 679.42(i)(1)?

Yes [] No []

BLOCK B – ATTACHMENTS

USE THIS LIST TO ENSURE YOUR APPLICATION IS COMPLETE.

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED.

NOTE: FAXED APPLICATIONS ARE NOT ACCEPTABLE. PLEASE SUBMIT ORIGINALS.

- [] Completed, signed, and notarized application
- [] Copy of permit or QS Certificate
- [] Declaration from certified medical professional

BLOCK C – TRANSFEROR INFORMATION (MEDICAL CONDITION)

1. Name:		
2. NMFS Person ID:	3. Date of Birth:	
4. Permanent Business Mailing Address:	5. Temporary Business Mailing Address (see instructions):	
6. Business Telephone No.:	7. Business Fax No.:	8. e-mail Address (if any):

BLOCK D – TRANSFEREE (NO MEDICAL CONDITION)

1. Name:		
2. NMFS Person ID:	3. Date of Birth:	
4. Permanent Business Mailing Address:		5. Temporary Business Mailing Address (see instructions):
6. Business Telephone No.:	7. Business Fax No.:	8. E-mail Address (if any)

BLOCK E – IDENTIFICATION OF IFQ TO BE TRANSFERRED

1. Halibut [] or Sablefish []	2. IFQ Regulatory Area:	3. Number of Units:
4. Numbered To and From (Serial Numbers are shown on the QS Certificate):	5. Actual Number of IFQ Pounds:	
6. Transferor (Seller) IFQ Permit Number:	7. Fishing Year: 20_____	

**REQUIRED SUPPLEMENTAL INFORMATION
YOUR APPLICATION WILL NOT BE PROCESSED UNLESS YOU PROVIDE THE FOLLOWING INFORMATION**

BLOCK F – TRANSFEROR SUPPLEMENTAL INFORMATION

1. Give the price per pound (including leases) \$ _____/pound of IFQ (Price divided by IFQ pounds) <p style="text-align: right;">Including fees</p>
2. What is the total amount being paid for the IFQ in this transaction, including all fees? _____

BLOCK G – TRANSFEREE SUPPLEMENTAL INFORMATION

1. What is the primary source of financing for this transfer (check one)?

- Personal resources (cash) AK Com. Fish & Ag. Bank Received as a gift
 Private bank/credit union Transferor/seller NMFS loan program
 Alaska Dept. Of Commerce Processor/fishing company Other (explain)

2. How was the IFQ located (check all that apply)?

- Relative Advertisement/public notice Broker
 Personal friend Casual acquaintance Other (explain)

3. What is the Buyer's relationship to the IFQ Holder (check all that apply)?

- No relationship Relative Business partner Other (explain)

BLOCK H – MEDICAL DECLARATION

(to be completed by licensed medical doctor, advanced nurse practitioner, or primary community health aid)

1. Name of Treating Medical Professional:

2. Business Telephone Number:

3. Permanent Business Mailing Address:

4. Type of Medical Professional:

- Licensed Medical Doctor
 Advanced Nurse Practitioner
 Primary Community Health Aide

5. Description of the medical condition affecting the applicant or applicant's family member (attach documentation of the medical condition and a description of the care required):

I acknowledge the requirements for receiving a Medical Transfer and certify that, to the best of my knowledge and belief, the information presented here is true, correct, and complete. The medical condition described above would prevent the applicant from participating in the IFQ fishery or, in the case of a family member, require continuous care that would preclude the applicant's participation in the IFQ fishery.

6. Signature of Treating Medical Professional:	7. Date:
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NOTE: *This application for transfer must be completed, signed, and notarized by both parties. Failure to have signatures properly notarized will result in delays in the processing of this application.*

BLOCK I –CERTIFICATION OF TRANSFEROR (SELLER)	
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.	
1. Signature of Transferor (Seller) or Authorized Agent:	2. Date:
3. Printed Name Transferor (Seller) or Authorized Agent Note: If agent, attach authorization:	
4. Notary Public Signature: ATTEST	5. Affix Notary Stamp or Seal Here:
6. Commission Expires:	

BLOCK J – CERTIFICATION OF TRANSFEREE (BUYER)

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.

1. Signature Transferee (Buyer) or Authorized Agent:

2. Date:

3. Printed Name Transferee (Buyer) or Authorized Agent **Note:** If agent, attach authorization:

4. Notary Public Signature:

ATTEST

5. Affix Notary Stamp or Seal Here:

5. Commission Expires:

REPORTING BURDEN STATEMENT

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form please note the following: 1) Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 104(b) of the Magnuson-Stevens Act). They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.



**INSTRUCTIONS:
Application for
Medical Transfer of IFQ**

In the event of a medical condition affecting a QS holder or an immediate family member of a QS holder that prevents the QS holder from being able to participate in the halibut or sablefish IFQ fisheries, a medical transfer may be approved for the IFQ derived from the QS held by the person affected by the medical condition.

A medical transfer will be approved if the QS holder demonstrates that:

He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition that precludes participation by the QS holder; or

He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition involving an immediate family member that requires the QS holder's full time attendance.

Eligibility.

To be eligible to receive a medical transfer, a QS holder must:

- Possess one or more catcher vessel IFQ permits; and
- Not qualify for a hired master exception under paragraph § 679.42(i)(1).

Restrictions.

- A medical transfer shall be valid only during the calendar year for which the permit is issued;
- A medical transfer will be issued only for the IFQ derived from the QS held by the applicant;
- NMFS will not approve a medical transfer if the applicant has received a medical transfer in any 2 of the previous 5 years for the same medical condition.

Note: A Separate Application must be submitted for each Medical Transfer (MT) of IFQ.

The original application must be submitted — an application sent by facsimile will not be processed.

Please allow at least ten working days for your application to be processed. Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

If you need assistance in completing this application or need additional information, call Restricted Access Management at (800) 304-4846 (#2) or (907) 586-7202 (#2).

A QS holder may apply for a medical transfer by submitting a medical transfer application to the Alaska Region, NMFS. A QS holder who has received an approved medical transfer from RAM may transfer the IFQ derived from his or her own QS to an individual eligible to receive IFQ.

A medical transfer application is available at <http://www.fakr.noaa.gov> or by calling 1-800-304-4846.

When completed, mail or deliver the application to

**NMFS Alaska Region
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668
or
709 West 9th Street, Room 713**

Note: It is important that all blocks are completed and all necessary documents are attached. Failure to answer any of the questions, provide attachments, or to have signatures notarized could result in delays in the processing of your application.

BLOCK A

Any person that received QS/IFQ as an Initial Issuee or that holds a Transfer Eligibility Certificate (TEC) is eligible to receive QS/IFQ by transfer. If you answer "No," the transferee (buyer) will need to contact RAM for instructions on eligibility procedures and a TEC application form.

Persons who qualify for a hired master exception under 50 CFR §679.42(i) are ineligible to receive an EMT. If you check "Yes," the submitted EMT application will be denied.

BLOCK B – ATTACHMENTS

Use this list as a guide to make sure you have included all the necessary items in the mailing of your application. This will ensure timely processing of your transfer application. You must attach the completed Medical Declaration and a copy of the IFQ permit or QS certificate to be considered for a Medical Transfer.

***BLOCKS C & D
TRANSFEROR (SELLER) AND TRANSFEREE (BUYER)***

1. Name: Full name as it appears on QS Certificate and/or Transfer Eligibility Certificate (TEC).
2. NMFS Person ID: As found on QS Certificate or TEC.
3. Date of Birth: Birth date of the person.
4. Permanent Business Mailing Address: Include street or P.O. Box number, city, state, and zip code.
5. Temporary Business Mailing Address: Address you want the transfer documentation sent if somewhere other than to the permanent address. Include street or P.O. Box number, city, state, and zip code.
- 6-8 Business Telephone and Fax Numbers: (Include the area codes), and E-mail Address (if any).

BLOCK E – IDENTIFICATION OF IFQ TO BE TRANSFERRED

1. Indicate whether halibut or Sablefish IFQ.

2. IFQ Regulatory Area:
3. Number of Units:
4. Range of serial numbers for IFQ to be transferred, numbered To and From (Serial Numbers are shown on the QS Certificate):
5. Actual Number of IFQ Pounds to be transferred
6. Transferor (Seller) IFQ Permit Number
7. Indicate Fishing Year

BLOCK F – TRANSFEROR SUPPLEMENTAL INFORMATION

1. The price per pound of IFQ must be entered for IFQs that are being transferred under an EMT. (To derive the number of dollars per unit of QS or pound of IFQ, divide the total amount paid, including fees, by the number of QS units **or** the number of IFQ pounds being transferred.)
2. The total amount entered should include **any and all** monies collected on behalf of the seller for the shares involved, including any fees that will be paid out to other parties for the expenses of brokering or assisting in the sale of these shares.

BLOCK G – TRANSFEREE SUPPLEMENTAL INFORMATION

1. Indicate the primary source of financing for this transfer (check one).
2. Indicate how the IFQ was located (check all that apply).
3. Indicate Buyer's relationship to the IFQ Holder (check all that apply).

BLOCK H -- MEDICAL DECLARATION
***(Completed by licensed medical doctor, advanced nurse practitioner,
or primary community health aide.)***

- 1-3. The medical professional who conducted the medical examination must print or type their name, business telephone number, and permanent business mailing address.
4. The medical professional who conducted the medical examination must check the box indicating the medical category they fall in.
5. The medical professional conducting the medical examination must provide a concise description of the medical condition affecting the applicant or the applicant's family member including verification that the applicant is unable to participate in the IFQ fishery for which he or she holds IFQ permits during the IFQ season because of the medical condition and, for an affected family member, a description of the care required. The medical professional may attach the original medical report or additional information if necessary.
6. The medical professional who conducted the medical examination must sign and date the declaration.

BLOCK I - CERTIFICATION OF TRANSFEROR

1. Sign and print your name and date the application. If completed by a representative, attach authorization..
2. **A Notary Public must attest, affix Notary Stamp, and provide date commission expires.** The Notary Public cannot be the person(s) submitting this application.

BLOCK J - CERTIFICATION OF TRANSFEREE

1. Sign and print your name and date the application. If completed by a representative, attach authorization..
2. **A Notary Public must attest, affix Notary Stamp, and provide date commission expires.** The Notary Public cannot be the person(s) submitting this application.

Magnuson-Stevens Fishery Conservation and Management Act

Public Law 94-265

As amended through October 11, 1996

AN ACT

**To provide for the conservation and management of the fisheries,
and for other purposes.**

J.Feder version (12/19/96)

SEC. 2. FINDINGS, PURPOSES, AND POLICY 16 U.S.C. 1801

(a) FINDINGS.--The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

104-297

(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

104-297

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

95-354

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

101-627

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.

104-297

(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

104-297

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

(b) PURPOSES.--It is therefore declared to be the purposes of the Congress in this Act--

99-659, 101-627, 102-251

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources[, and fishery resources in the special areas]*;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

104-297

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each

fishery;

101-627

(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;

95-354, 96-561, 104-297

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

104-297

(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

(c) **POLICY.**--It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

101-627, 104-297

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act;

99-659, 101-627

(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;

101-627

(6) to foster and maintain the diversity of fisheries in the United States; and

104-297

(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

SEC. 3. DEFINITIONS 16 U.S.C. 1802

As used in this Act, unless the context otherwise requires--

(1) The term "anadromous species" means species of fish, which spawn in fresh, or estuarine waters of the United States and which migrate to ocean waters.

104-297

(2) The term "bycatch" means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

104-297

(3) The term "charter fishing" means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

(4) The term "commercial fishing" means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

(5) The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(6) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

99-659, 104-297

(7) The term "Continental Shelf fishery resources" means the following:

CNIDARIA

Bamboo Coral--Acanella spp.;

§ 679.1 Purpose and scope

Subpart A--General

§ 679.1 Purpose and scope.

Regulations in this part were developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Along with part 600 of this chapter, these regulations implement the following:

(a) Fishery Management Plan for Groundfish of the Gulf of Alaska.

(1) Regulations in this part govern commercial fishing for groundfish in the GOA by vessels of the United States (see subparts A, B, D, and E of this part).

(2) The following State of Alaska regulations are not preempted by this part for vessels regulated under this part fishing for demersal shelf rockfish in the Southeast Outside District, and which are registered under the laws of the State of Alaska: 5 AAC 28.110, fishing seasons; 5 AAC 28.130, gear; 5 AAC 28.160, harvest guidelines; 5 AAC 28.190, harvest of bait by commercial permit holders.

(b) Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

Regulations in this part govern commercial fishing for groundfish in the BSAI by vessels of the United States (see subparts A, B, C, D, and E of this part).

(c) [Reserved]

(d) IFQ Program for sablefish and halibut.

The IFQ management measures for the commercial fisheries that use fixed gear to harvest sablefish and halibut (see subparts A, B, D, and E of this part).

(1) Sablefish.

(i) Regulations in this part govern commercial fishing for sablefish by vessels of the United States:

(A) Using fixed gear within that portion of the GOA and the BSAI over which the United States exercises exclusive fishery management authority; and

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that aboard such vessels are persons who currently hold quota shares, IFQ permits, or IFQ cards.

(ii) Regulations in this part do not govern commercial fishing for sablefish in Prince William Sound or under a State of Alaska limited entry program.

(2) Halibut.

Regulations in this part govern commercial fishing for halibut by vessels of the United States using fixed gear, as that term is defined in 50 CFR 679.2, in and off of Alaska.

(e) Western Alaska CDQ Program.

The goals and purpose of the CDQ program are to allocate CDQ to eligible Western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally based, fisheries-related economy.

(f) Groundfish Observer Program. (applicable through December 31, 2007).

Regulations in this part govern elements of the Groundfish Observer Program for the BSAI groundfish and GOA groundfish fisheries under the Council's authority (see subpart E of this part).

(g) Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs.

Regulations in this part govern commercial fishing for king and Tanner crab in the Bering Sea and Aleutian Islands Area by vessels of the United States, **and supersede** State of Alaska regulations applicable

§ 679.1 Purpose and scope

to the commercial king and Tanner crab fisheries in the Bering Sea and Aleutians Islands Area EEZ that are determined to be inconsistent with the FMP (see **subpart A, B, and E** of this part). **Additional regulations governing commercial fishing for, and processing of, king and Tanner crab managed pursuant to section 313(j) of the Magnuson-Stevens Act and the Crab Rationalization Program are codified at 50 CFR part 680.**

(h) Fishery Management Plan for the Scallop Fishery off Alaska.

(1) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska by vessels of the United States (see subpart A of this part).

(2) State of Alaska laws and regulations that are consistent with the FMP and with the regulations in this part apply to vessels of the United States that are fishing for scallops in the Federal waters off Alaska.

(i) Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP).

(1) Regulations in this part govern fishing for salmon by fishing vessels of the United States in the Salmon Management Area.

(2) State of Alaska laws and regulations that are consistent with the Salmon FMP and with the regulations in this part apply to vessels of the United States that are fishing for salmon in the Salmon Management Area.

(j) License Limitation Program (LLP).

(1) Regulations in this part implement the **LLP** for the commercial groundfish fisheries in the EEZ off Alaska and **the LLP** for the commercial crab fisheries in the Bering Sea and Aleutians Islands Area.

(2) Regulations in this part govern the commercial fishing for **groundfish under the LLP** by vessels of the United States using authorized gear within the GOA and the **Bering Sea and Aleutians Islands Area** and the commercial fishing for crab species **under the LLP** by vessels of the United States

using authorized gear within the Bering Sea and Aleutians Islands Area.

(3) Regulations in this part implement the license limitation program for the commercial scallop fishery in the EEZ off Alaska.

(4) Regulations in this part govern the commercial fishing for scallops by vessels of the United States using authorized gear within the EEZ off Alaska.

(k) American Fisheries Act and AI directed pollock fishery measures.

Regulations in this part were developed by NMFS and the Council under the Magnuson-Stevens Act, the American Fisheries Act (AFA), and the Consolidated Appropriations Act of 2004 to govern commercial fishing for BSAI pollock according to the requirements of the AFA and the Consolidated Appropriations Act of 2004. This part also governs payment and collection of the loan, under the AFA, the Magnuson-Stevens Act, and Title XI of the Merchant Marine Act, 1936, made to all those persons who harvest pollock from the directed fishing allowance allocated to the inshore component under section 206(b)(1) of the AFA.

§ 679.41 Transfer of QS and IFQ

§ 679.41 Transfer of quota shares and IFQ.

(a) General.

(1) Except as provided in paragraph (a)(2) of this section, transfer of QS or IFQ means any transaction requiring QS, or the use thereof in the form of IFQ, to pass from one person to another, permanently or for a fixed period of time.

(2) Transactions requiring IFQ cards to be issued in the name of a vessel master employed by an individual or a corporation are not transfers of QS or IFQ.

(b) Transfer procedure

(1) Application for transfer.

An Application for Transfer of QS/IFQ (Application for Transfer) must be approved by the Regional Administrator before a person may use IFQ to harvest IFQ halibut or IFQ sablefish, whether the IFQ was the result of a direct transfer or the result of a QS transfer. An Application for Transfer will not be approved until the Regional Administrator has reviewed and approved the transfer agreement signed by the parties to the transaction. The Regional Administrator shall provide an Application for Transfer form to any person on request. Persons who submit an Application for Transfer to the Regional Administrator for approval will receive notification of the Regional Administrator's decision to approve or disapprove the Application for Transfer, and, if applicable, the reason(s) for disapproval, by mail posted on the date of that decision, unless another communication mode is requested on the Application for Transfer.

(2) QS or IFQ accounts.

QS or IFQ accounts affected by an Application for Transfer approved by the Regional Administrator will change on the date of approval. Any necessary IFQ permits will be sent with the notification of the Regional Administrator's decision.

(c) Application for Transfer approval criteria.

Except as provided in paragraph (f) of this section, an Application for Transfer will not be approved until the Regional Administrator has determined that:

(1) The person applying for transfer received the QS or IFQ to be transferred:

(i) By initial assignment by the Regional Administrator as provided in § 679.40(a); or

(ii) By approved transfer.

(2) The person applying to receive the QS or IFQ meets the requirements of eligibility in paragraph (d) of this section.

(3) The person applying for transfer and the person applying to receive the QS or IFQ have their notarized signatures on the Application for Transfer.

(4) There are no fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations involving either person.

(5) The person applying to receive the QS or IFQ currently exists.

(6) The transfer would not cause the person applying to receive the QS or IFQ to exceed the use limits in § 679.42(e) or (f).

(7) The transfer would not violate the provisions of paragraph (g) of this section.

(8)

(i) The person applying to make or receive the IFQ or QS transfer has paid all IFQ fees that have become due as a result of an initial administrative determination.

(ii) The person applying to make or receive the IFQ or QS transfer who has not paid all IFQ fees that are due (as provided under § 679.45(a)) has timely appealed the administrative determination that IFQ fees have not been paid in full and has submitted to NMFS an amount sufficient to satisfy any disputed liability pending a final agency action.

(9) Other pertinent information requested on the Application for Transfer has been supplied to the satisfaction of the Regional Administrator.

(10) If the person applying to transfer or receive QS or IFQ is a CQE, the following determinations are

§ 679.41 Transfer of QS and IFQ

required for each eligible community represented by that CQE:

(i) An individual applying to receive IFQ from QS held by a CQE is an eligible community resident of the eligible community in whose name the CQE is holding QS;

(ii) The CQE applying to receive or transfer QS, has submitted a complete annual report(s) required by § 679.5 (l)(8);

(iii) The CQE applying to transfer QS has provided information on the reasons for the transfer as described in paragraph (g)(7) of this section;

(iv) The CQE applying to receive QS is eligible to hold QS on behalf of the eligible community in the halibut or sablefish regulatory area designated for that eligible community in Table 21 to this part; and

(v) The CQE applying to receive QS has received notification of approval of eligibility to receive QS/IFQ for that community as described in paragraph (d)(1) of this section.

(d) Eligibility to receive QS or IFQ by transfer

(1) Application for Eligibility.

All persons applying to receive QS or IFQ must submit an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) containing accurate information to the Regional Administrator, except that an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) is not required for a CQE if a complete application to become a CQE, as described in paragraph (l)(3) of this section, has been approved by the Regional Administrator on behalf of an eligible community. The Regional Administrator will not approve a transfer of IFQ or QS to a person until the Application for Eligibility for that person is approved by the Regional Administrator. The Regional Administrator shall provide an Application for Eligibility form to any person on request.

(2) Type of eligibility.

A person must indicate on the Application for Eligibility whether the eligibility sought is as:

(i) An individual; or

(ii) A corporation, partnership, or other entity.

(3) Application filing order.

A person may submit the Application for Eligibility with the Application for Transfer or file the Application for Eligibility prior to submitting the Application for Transfer. If a person, as described in paragraph (d)(2)(ii) of this section, files the Application for Eligibility prior to submitting the Application for Transfer, and that person's status subsequently changes, as described in § 679.42(j), that person must resubmit an Application for Eligibility before submitting, or with, the Application for Transfer.

(4) Notification of approval.

Applicants will be notified by mail of the Regional Administrator's approval of an application for eligibility.

(5) Notification of disapproval.

The Regional Administrator will notify the applicant if an Application for Eligibility is disapproved. This notification of disapproval will include:

(i) The disapproved Application for Eligibility.

(ii) An explanation why the Application for Eligibility was not approved.

(6) Reasons for disapproval.

Reasons for disapproval of an Application for Eligibility may include, but are not limited to:

(i) Fewer than 150 days of experience working as an IFQ crew member.

(ii) Lack of compliance with the U.S. citizenship or corporate ownership requirements specified by the definition of "person" at § 679.2.

(iii) An incomplete Application for Eligibility.

(iv) Fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations.

§ 679.41 Transfer of QS and IFQ

(e) Transfers of QS blocks.

(1) General.

A QS block must be transferred as an undivided whole, unless the size of the QS block exceeds the use limits specified at § 679.42. If the QS block to be transferred exceeds the use limits specified at § 679.42, the Regional Administrator will divide the block into two blocks, one block containing the maximum amount of QS allowable under the QS use limits and the other block containing the residual QS.

(2) Sablefish.

QS blocks for the same IFQ regulatory area and vessel category that represent less than 5,000 lb (2.3 mt) of sablefish IFQ, based on the 1996 TAC share for fixed gear sablefish in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 5,000 lbs (2.3 mt) of sablefish IFQ based on the preceding criteria. A consolidated block cannot be divided and is considered a single block for purposes of use and transferability. The maximum number of QS units that may be consolidated into a single QS block in each IFQ regulatory area is as follows:

use and transferability. The maximum number of QS units that may be consolidated into a single block in each IFQ regulatory area is as follows:

(i)	Area 2C	19,992 QS
(ii)	Area 3A	27,912 QS
(iii)	Area 3B	44,193 QS
(iv)	Subarea 4A	22,947 QS
(v)	Subarea 4B	15,087 QS
(vi)	Subarea 4C	30,930 QS
(vii)	Subarea 4D	26,082 QS
(viii)	Subarea 4E	0 QS

(4) A CQE may not purchase or use sablefish QS blocks less than or equal to the number of QS units specified in (e)(2)(i) through (e)(2)(iv) of this section.

(5) A CQE may not purchase or use halibut QS blocks less than or equal to the number of QS units specified in (e)(3)(i) and (e)(3)(ii) of this section.

(i)	Southeast Outside district	33,270 QS
(ii)	West Yakutat district	43,390 QS
(iii)	Central GOA regulatory area	46,055 QS
(iv)	Western GOA regulatory area	48,410 QS
(v)	Aleutian Islands subarea	99,210 QS
(vi)	Bering Sea subarea	91,275 QS

(f) Transfer of QS or IFQ with restrictions.

If QS or IFQ must be transferred as a result of a court order, operation of law, or as part of a security agreement, but the person receiving the QS or IFQ by transfer does not meet all of the eligibility requirements of this section, the Regional Administrator will approve the Application for Transfer with restrictions. The Regional Administrator will not assign IFQ resulting from the restricted QS to any person. IFQ with restrictions may not be used for harvesting halibut or sablefish with fixed gear. The QS or IFQ will remain restricted until:

(3) Halibut.

QS blocks for the same IFQ regulatory area and vessel category that represent less than 3,000 lbs (1.4 mt) of halibut IFQ, based on the 1996 catch limit for halibut in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 3,000 lbs (1.4 mt) of halibut IFQ based on the preceding criteria. A consolidated block cannot be divided and is considered a single block for purposes of

(1) The person who received the QS or IFQ with restrictions meets the eligibility requirements of this section and the Regional Administrator approves an Application for Eligibility for that person; or

(2) The Regional Administrator approves the Application for Transfer from the person who received the QS or IFQ with restrictions to a person who meets the requirements of this section.

(g) Transfer restrictions.

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(1) Except as provided in paragraph (f), paragraph (g)(2), or paragraph (l) of this section, only persons who are IFQ crew members, or who were initially issued QS assigned to vessel categories B, C, or D, and meet the eligibility requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it.

(2) Except as provided in paragraph (g)(3) of this section, only persons who are IFQ crew members, and meet the other requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it, in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish.

(3) Individuals who were initially issued QS assigned to vessel categories B, C, or D may transfer that QS to a corporation that is solely owned by the same individual. Such transfers of QS assigned to vessel categories B, C, or D in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish will be governed by the use provisions of § 679.42(i); the use provisions pertaining to corporations at § 679.42(j) shall not apply.

(4) The Regional Administrator will not approve an Application for Transfer of QS assigned to vessel categories B, C, or D subject to a lease or any other condition of repossession or resale by the person transferring QS, except as provided in paragraph (h) of this section, or by court order, operation of law, or as part of a security agreement. The Regional Administrator may request a copy of the sales contract or other terms and conditions of transfer between two persons as supplementary information to the transfer application.

(5) A CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D.

(6) IFQ derived from QS held by a CQE on behalf of an eligible community may be used only by an eligible community resident of that eligible community.

(7) A CQE may transfer QS:

(i) To generate revenues to provide funds to meet administrative costs for managing the community QS holdings;

(ii) To generate revenue to improve the ability of residents within the community to participate in the halibut and sablefish IFQ fisheries;

(iii) To generate revenue to purchase QS to yield IFQ for use by community residents;

(iv) To dissolve the CQE; or

(v) As a result of a court order, operation of law, or as part of a security agreement.

(8) If the Regional Administrator determines that a CQE transferred QS for purposes other than those specified in paragraph (g)(7) of this section, then:

(i) The CQE must divest itself of any remaining QS holdings and will not be eligible to receive QS by transfer for a period of three years after the effective date of final agency action on the Regional Administrator's determination; and

(ii) The Regional Administrator will not approve a CQE to represent the eligible community in whose name the CQE transferred quota for a period of three years after the effective date of final agency action on the Regional Administrator's determination.

(h) Transfer of IFQ.

(1) Pursuant to paragraph (a) of this section, an Application for Transfer must be approved by the Regional Administrator before a person may use any IFQ that results from a direct transfer to harvest halibut or sablefish. After approving the Application for Transfer, the Regional Administrator will change any IFQ accounts affected by the approved transfer and issue all necessary IFQ permits.

(2) IFQ resulting from category B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (k) of this section.

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(i) Transfer across catcher vessel categories

(1) CDQ compensation.

Persons issued CDQ compensation QS in a catcher vessel category, pursuant to § 679.41(j), and in an IFQ regulatory area in which they do not hold QS other than CDQ compensation QS, may use that CDQ compensation QS on any catcher vessel. This exemption from catcher vessel categories ends upon the first transfer of the CDQ compensation QS. CDQ compensation QS being transferred will be permanently assigned to a specific catcher vessel category as designated by the person receiving the transfer.

(2) CDQ compensation QS definition.

For purposes of this paragraph (i), CDQ compensation QS is QS issued as compensation for halibut and sablefish harvest privileges foregone due to the CDQ Program, as provided in paragraph (j) of this section.

(j) Compensation for CDQ allocations.

(1) The Regional Administrator will compensate persons that receive a reduced halibut QS in IPHC regulatory areas 4B, 4C, 4D, or 4E because of the halibut CDQ program by adding halibut QS from IPHC regulatory areas 2C, 3A, 3B, and 4A. This compensation of halibut QS from areas 2C, 3A, 3B, and 4A will be allocated in proportion to the amount of halibut QS foregone due to the CDQ allocation authorized by this section.

(2) The Regional Administrator will compensate persons that receive a reduced sablefish QS in any BSAI IFQ regulatory area because of the sablefish CDQ program by taking sablefish QS from the IFQ regulatory areas of the GOA and allocating it in proportion to the loss suffered by persons in the BSAI area. Such additional compensation of sablefish QS will be allocated in proportion to the amount of sablefish QS foregone due to the CDQ allocation authorized by this section.

(3) Persons initially issued QS for IFQ regulatory areas in which a portion of the TAC is allocated to the CDQ Program will be compensated for halibut and sablefish harvest privileges foregone due to the CDQ Program. If a person does not hold QS in an IFQ regulatory area on the date the compensation is issued,

that person's compensation will be issued as unblocked. If a person does hold QS in an IFQ regulatory area on the date compensation is issued, that person's compensation will be added to their existing QS in that IFQ regulatory area. The resulting QS amount will be blocked or unblocked according to the criteria found at § 679.40(a). Compensation will be calculated for each non-CDQ area using the following formula:

$$Q_N = (Q_C \times QSP_N \times RATE) /$$

$$(SUM_{CDQ} - [RATE \times SUM_{TAC}])$$

$$([1 - RATE] \times TAC_{AVE})$$

$$(QSP_C \times [CDQ_{PCT} - RATE])$$

Where:

Q_N	=	quota share in non-CDQ area
Q_C	=	quota share in CDQ area
QSP_N	=	quota share pool in non-CDQ area (as existing on January 31, 1995)
$RATE$	=	SUM_{CDQ} average of the TAC (1988 - 1994) for all CDQ and non-CDQ areas
TAC_{AVE}	=	average of the TAC (1988 - 1994) for CDQ area
QSP_C	=	quota share pool in CDQ area (as existing on January 31, 1995)
CDQ_{PCT}	=	CDQ percentage for CDQ area
SUM_{CDQ}	=	sum [$TAC_{AVE} \times CDQ_{PCT}$]
SUM_{TAC}	=	sum [TAC_{AVE}]

(k) Survivorship transfer privileges

(1) On the death of an individual who holds QS or IFQ, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (k)(2) of this section, receives all QS and IFQ held by the decedent by right of survivorship, unless a contrary intent was expressed by the decedent in a will. The Regional Administrator will approve an Application for Transfer to the surviving spouse or designated beneficiary when sufficient evidence has been provided to verify the death of the individual.

(2) QS holders may provide the Regional Administrator with the name of a designated

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beneficiary from the QS holder's immediate family to receive survivorship transfer privileges in the event of the QS holder's death and in the absence of a surviving spouse.

(3) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (h)(2) of this section.

(l) Transfer of QS to CQEs.

(1) Each eligible community must designate a CQE to transfer and hold QS on behalf of that community.

(2) Each eligible community may designate only one CQE to hold QS on behalf of that community at any one time.

(3) Prior to initially receiving QS by transfer on behalf of a specific eligible community, a non-profit entity that intends to represent that eligible community as a CQE must have approval from the Regional Administrator. To receive that approval, the non-profit entity seeking to become a CQE must submit a complete application to become a CQE to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802.

The Regional Administrator will provide a copy of the complete application to the Alaska Department of Community and Economic Development, Commissioner, P.O. Box 110809, Juneau, AK 99811-0809.

NMFS will consider comments received from the Alaska Department of Community and Economic Development when reviewing applications for a non-profit entity to become a CQE. The Alaska Department of Community and Economic

Development must submit comments on an application to the

Regional Administrator, NMFS,
P.O. Box 21668,
Juneau, AK 99802,

within 30 days of receipt of the application in order for those comments to be considered by the Regional Administrator during the approval process. If an application is disapproved, than that determination may be appealed under the provisions established at 50 CFR 679.43. A complete application to become a CQE consists of:

(i) The articles of incorporation under the laws of the State of Alaska for that non-profit entity, except that a non-profit entity that is representing the Metlakatla Indian Village may provide articles of incorporation under Federal Law;

(ii) A statement indicating the eligible community, or communities, represented by that non-profit entity for purposes of holding QS;

(iii) Management organization information, including:

(A) The bylaws of the non-profit entity;

(B) A list of key personnel of the managing organization including, but not limited to, the board of directors, officers, representatives, and any managers;

(C) A description of how the non-profit entity is qualified to manage QS on behalf of the eligible community, or communities, it is designated to represent, and a demonstration that the non-profit entity has the management, technical expertise, and ability to manage QS and IFQ; and

(D) The name of the non-profit organization, taxpayer ID number, NMFS person number, permanent business mailing addresses, name of contact persons and additional contact information of the managing personnel for the non-profit entity, resumes of management personnel, name of community or communities represented by the CQE, name of contact for the governing body of each community represented, date, name and notarized signature of applicant, Notary Public signature and date when commission expires.

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(iv) A statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community represented by that CQE, including:

(A) Procedures used to solicit requests from residents to lease IFQ; and

(B) Criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria.

(v) A statement of support from the governing body of the eligible community as that governing body is identified in Table 21 to this part. That statement of support is:

(A) A resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities in the State of Alaska;

(B) A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior; or

(C) A resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated as first or second class cities in the State of Alaska, and is not represented by a tribal government authority recognized by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

(1) Have articles of incorporation as a non-profit community association, homeowner association, community council, or other non-profit entity; and

(2) Have an established relationship with the State of Alaska Department of Community and Economic Development for purposes of representing that community for governmental functions.

(D) If an eligible community is not incorporated as a first or second class city in the State of Alaska, is not represented by a tribal government authority recognized by the Secretary of the Interior, and does not have a non-profit community association,

homeowner association, community council, or other non-profit entity within that community with an established relationship with the Alaska Department of Community and Economic Development for purposes of representing that community for purposes of governmental functions, then the Regional Administrator, NMFS, will not consider any statement from a non-profit entity representing that community until that community:

(1) Is incorporated as a first or second class city in the State of Alaska;

(2) Establishes a tribal government authority recognized by the Secretary of the Interior; or

(3) Establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community that meets the requirements established in paragraph (E) of this section.

(E) If a community described under paragraph (1)(3)(v)(D) of this section establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community, then the Regional Administrator, NMFS, will consider any recommendations from this entity to support a particular applicant after reviewing:

(1) Petitions from residents affirming that the non-profit community association, homeowner association, community council, or other non-profit entity within that community represents the residents within that community; and

(2) Comments from the State of Alaska Department of Community and Economic Development on the articles of incorporation for that non-profit entity and the ability of that non-profit entity to adequately represent the interests of that community for purposes of governmental functions.

(3) If the Regional Administrator determines that this statement of support is not adequate, that that determination may be appealed under the provisions established at 50 CFR 679.43.

(4) The governing body of an eligible community as that governing body is identified in Table 21 to this part, must provide authorization for any transfer of QS by the CQE that holds QS on behalf

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of that eligible community prior to that transfer of QS being approved by NMFS. This authorization must be submitted as part of the Application for Transfer. That authorization consists of a signature on the Application for Transfer by a representative of the governing body that has been designated by that governing body to provide such authorization to approve the transfer of QS.

§679.42 Limitations on use of QS and IFQ

§ 679.42 *Limitations on use of QS and IFQ.*

(a) IFQ regulatory area and vessel category.

(1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area, **except:**

(i) Notwithstanding § 679.4(d)(1), § 679.7(f)(4) and (f)(11), § 679.40(b)(1), (c)(3), and (e), from July 22, 2005 to November 15, 2005, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(ii) For the year 2006 and subsequent annual IFQ fishing seasons, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(2) The QS or IFQ assigned to one vessel category must not be used to harvest IFQ species on a vessel of a different vessel category, except:

(i) As provided in paragraph (k) of this section (processing fish other than IFQ halibut and IFQ sablefish);

(ii) As provided in § 679.41(i)(1) of this part (CDQ compensation QS exemption);

(iii) IFQ derived from QS held by a CQE may be used to harvest IFQ species from a vessel of any length.

(3) Notwithstanding § 679.40(a)(5)(ii) of this part, IFQ assigned to vessel Category B must not be used on any vessel less than or equal to 60 ft (18.3 m) LOA to harvest IFQ halibut in IFQ regulatory area 2C or IFQ sablefish in the regulatory area east of 140° W. long. unless such IFQ derives from blocked QS units that result in IFQ of less than 5,000 lb (2.3 mt), based on the 1996 TAC for fixed gear specified for the IFQ halibut fishery and the IFQ sablefish fishery in each of these two regulatory areas.

(b) Gear.

(1) IFQ Fisheries.

Halibut IFQ must be used only to harvest halibut with fishing gear authorized in § 679.2. Sablefish fixed

gear IFQ must not be used to harvest sablefish with trawl gear in any IFQ regulatory area, or with pot gear in any IFQ regulatory area of the GOA.

(2) Seabird avoidance gear and methods.

The operator of a vessel using gear authorized at § 679.2 while fishing for IFQ halibut, CDQ halibut, or hook-and-line gear while fishing for IFQ sablefish must comply with requirements for seabird avoidance gear and methods set forth at § 679.24(e).

(c) Requirements and deductions.

(1) Any individual who harvests halibut or sablefish with fixed gear must:

(i) Have a valid IFQ card.

(ii) Be aboard the vessel at all times during the fishing trip and present during the landing.

(iii) Sign any required fish ticket.

(iv) Sign the IFQ Landing Report required by § 679.5(1)(2)(iii)(M) or § 679.5(1)(2)(iv)(D).

(2) NMFS shall use the following sources of information to debit a CDQ or IFQ account.

(i) Except as provided in § 679.5(1)(2)(iii)(J), if offload of unprocessed IFQ halibut, CDQ halibut or IFQ sablefish from a vessel, the scale weight of the halibut or sablefish product actually measured at the time of offload, as required by § 679.5(1)(2)(iii) to be included in the IFQ Landing Report.

(ii) If offload of processed IFQ & CDQ halibut or IFQ sablefish from a vessel, the scale weight of the halibut or sablefish processed product actually measured at or before the time of offload. If the product scale weights are taken before the time of offload, then the species and actual product weight of each box or container must be visibly marked on the outside of each container to facilitate enforcement inspection.

(3) All IFQ catch onboard a vessel must be debited from the IFQ permit holder's account under which the catch was harvested.

§ 679.42 Limitations on use of QS and IFQ

(d) Emergency waiver.

The requirement of paragraph (c) of this section for an individual IFQ card holder to be aboard the vessel during fishing operations and to sign the IFQ landing report may be waived in the event of extreme personal emergency involving the IFQ user during a fishing trip. The waiving of these requirements shall apply only to IFQ halibut or IFQ sablefish retained on the fishing trip during which such emergency occurred.

(e) Sablefish QS use.

(1) No person, individually or collectively, may use more than 3,229,721 units of sablefish QS, except if the amount of a person's initial allocation of sablefish QS is greater than 3,229,721 units, in which case that person may not use more than the amount of the initial allocation.

(2) In the IFQ regulatory area east of 140 W. long., no person, individually or collectively, may use more than 688,485 units of sablefish QS for this area, except if the amount of a person's initial allocation of sablefish QS is greater than 688,485 units, in which case that person may not use more than the amount of the initial allocation.

(3) No CQE may hold sablefish QS in the IFQ regulatory areas of the Bering Sea subarea and the Aleutian Islands subareas.

(4) No CQE may hold more than 3,229,721 units of sablefish QS on behalf of any single eligible community.

(5) In the IFQ regulatory area east of 140 W. long., no CQE may hold more than 688,485 units of sablefish QS for this area on behalf of any single eligible community.

(6) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in § 679.41(e)(2)(I) through (e)(2)(iv) of this part for sablefish in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all CQEs shall increase by an additional 3 percent in each IFQ regulatory area specified in § 679.41(e)(2)(i) through (e)(2)(iv) of this part up to a maximum limit of 21 percent of the total

QS in each regulatory area specified in §§ 679.41(e)(2)(i) through (e)(2)(iv) of this part for sablefish.

(7) No individual that receives IFQ derived from sablefish QS held by a CQE may hold, individually or collectively, more than 50,000 lb (22.7 mt) of IFQ sablefish derived from any sablefish QS source.

(8) A CQE receiving category B, or C sablefish QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community on whose behalf the QS is held.

(f) Halibut QS use.

(1) Unless the amount in excess of the following limits was received in the initial allocation of halibut QS, no person, individually or collectively, may use more than:

(i) IFQ regulatory area 2C.
599,799 units of halibut QS.

(ii) IFQ regulatory area 2C, 3A, and 3B.
1,502,823 units of halibut QS.

(iii) IFQ regulatory area 4A, 4B, 4C, 4D, and 4E.
495,044 units of halibut QS.

(2) No CQE may receive an amount of halibut QS on behalf of any single eligible community which is more than:

(i) IFQ regulatory area 2C.
599,799 units of halibut QS.

(ii) IFQ regulatory area 2C, 3A, and 3B.
1,502,823 units of halibut QS.

(3) No CQE may hold halibut QS in the IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E.

(4) A CQE representing an eligible community may receive by transfer or use QS only in the IFQ regulatory areas designated for that species and for that eligible community as described in Table 21 to this part.

(5) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in

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those IFQ regulatory areas specified in §§ 679.41(e)(3)(i) through (e)(3)(iii) for halibut in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all community quota entities shall increase by an additional 3 percent in each IFQ regulatory area specified in §§ 679.41(e)(3)(i) through (e)(3)(iii). This limit shall increase up to a maximum limit of 21 percent of the total QS in each regulatory area specified in §§ 679.41(e)(3)(i) through (e)(3)(iii) for halibut.

(6) No individual that receives IFQ derived from halibut QS held by a CQE may hold, individually or collectively, more than 50,000 lb (22.7 mt) of IFQ halibut derived from any halibut QS source.

(7) A CQE receiving category B or C halibut QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community represented by the CQE.

(g) Limitations on QS blocks.

(1) Number of blocks per species.

Except as provided in paragraphs (g)(1)(i) and (g)(1)(ii) of this section, no person, individually or collectively, may hold more than two blocks of each species in any IFQ regulatory area.

(i) A person, individually or collectively, who holds unblocked QS for a species in an IFQ regulatory area, may hold only one QS block for that species in that regulatory area; and

(ii) A CQE may hold no more than ten blocks of halibut QS in any IFQ regulatory area and no more than five blocks of sablefish QS in any IFQ regulatory area on behalf of any eligible community.

(2) Holding or to hold blocks of QS.

For purposes of this section, "holding" or "to hold" blocks of QS means being registered by NMFS as the person who received QS by initial assignment or approved transfer.

(h) Vessel limitations.

(1) Halibut.

No vessel may be used, during any fishing year,

to harvest more than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, except that:

(i) In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ halibut from any halibut QS source if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE.

(2) Sablefish.

No vessel may be used, during any fishing year, to harvest more than one percent of the combined fixed gear TAC of sablefish for the GOA and BSAI IFQ regulatory areas, except that:

(i) In the IFQ regulatory area east of 140 degrees W. long., no vessel may be used to harvest more than 1 percent of the fixed gear TAC of sablefish for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ sablefish from any sablefish QS source if that vessel is used to harvest IFQ sablefish derived from sablefish QS held by a CQE.

(3) A person who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all of that IFQ with a single vessel, except that this provision does not apply if that IFQ allocation includes IFQ derived from QS held by a CQE. However, two or more persons may not catch and retain their IFQ in excess of these limitations.

(i) Use of IFQ resulting from QS assigned to vessel categories B, C, or D by individuals.

In addition to the requirements of paragraph (c) of this section, IFQ cards issued for IFQ resulting from QS assigned to vessel categories B, C, or D must be used only by the individual who holds the QS from which the associated IFQ is derived, except as provided in paragraph (i)(1) of this section.

(1) An individual who received an initial allocation of QS assigned to categories B, C, or D does

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not have to be aboard the vessel on which his or her IFQ is being fished or to sign IFQ landing reports if that individual owns at least a 20-percent interest in the vessel and is represented on the vessel by a master employed by that individual. NMFS will determine ownership interest for purposes of this paragraph only on the basis of written documentation. This minimum 20-percent ownership requirement does not apply to any individual who received an initial allocation of QS assigned to categories B, C, or D and who, prior to April 17, 1997, employed a master to fish any of the IFQ issued to that individual, provided the individual continues to own the vessel from which the IFQ is being fished at no lesser percentage of ownership interest than that held on April 17, 1997, and provided that this individual has not acquired additional QS through transfer after September 23, 1997.

(2) The exemption provided in paragraph (i)(1) of this section does not apply to individuals who receive an initial allocation of QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish QS in the IFQ regulatory area east of 140° W. long., and this exemption is not transferable.

(3) The exemption provided in paragraph (i)(1) of this section may be exercised by an individual on a vessel owned by a corporation, partnership, or other entity in which the individual is a shareholder, partner, or member, provided that the individual maintains a minimum 20 percent interest in the vessel owned by the corporation, partnership, or other entity. For purposes of this paragraph, interest in a vessel is determined as the percentage ownership of a corporation, partnership, or other entity by that individual multiplied by the percentage of ownership of the vessel by the corporation, partnership, or other entity.

(4) IFQ derived from QS held by a CQE must be used only by the individual whose IFQ permit account contains the resulting IFQ.

(j) Use of IFQ resulting from QS assigned to vessel categories B, C, or D by corporations and partnerships.

Except as provided in paragraph (j)(5) of this section, a corporation or partnership that received an initial allocation of QS assigned to categories B, C, or D may fish the IFQ resulting from that QS and any

additional QS acquired within the limitations of this section provided that the corporation or partnership owns at least a 20- percent interest in the vessel on which its IFQ is fished, and that it is represented on the vessel by a master employed by the corporation or partnership that received the initial allocation of QS. NMFS will determine ownership interest for purposes of this paragraph only on the basis of written documentation. This provision is not transferable and does not apply to QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish in the IFQ regulatory area east of 140° W. long. that is transferred to a corporation or partnership. Such transfers of additional QS within these areas must be to an individual pursuant to § 679.41(c) of this part and be used pursuant to paragraphs (c) and (i) of this section.

(1) A corporation or partnership, except for a publicly-held corporation, that receives an initial allocation of QS assigned to vessel categories B, C, or D loses the exemption provided under paragraph (j) of this section on the effective date of a change in the corporation or partnership from that which existed at the time of initial allocation.

(2) For purposes of this paragraph (j), “a change” means:

(i) for corporations and partnerships, the addition of any new shareholder(s) or partner(s), except that a court appointed trustee to act on behalf of a shareholder or partner who becomes incapacitated is not a change in the corporation or partnership; or

(ii) for estates, the final or summary distribution of the estate.

(3) The Regional Administrator must be notified of a change in the corporation, partnership, or other entity as defined in this paragraph (j) within 15 days of the effective date of the change. The effective date of change, for purposes of this paragraph (j), is the date on which the new shareholder(s) or partner(s) may realize any corporate liabilities or benefits of the corporation or partnership or, for estates, the date of the determination of a legal heir to the estate, or the date of the order for distribution of the estate.

(4) QS assigned to vessel categories B, C, or D and IFQ resulting from that QS held in the name of a corporation, partnership, or other entity that changes,

§679.42 Limitations on use of QS and IFQ

as defined in this paragraph, must be transferred to an individual, as prescribed in § 679.41 of this part, before it may be used at any time after the effective date of the change.

(5) A corporation or a partnership that received an initial allocation of QS assigned to categories B, C, or D and that, prior to April 17, 1997, employed a master to fish any of the IFQ issued to that corporation or partnership may continue to employ a master to fish its IFQ on a vessel owned by the corporation or partnership provided that the corporation or partnership continues to own the vessel at no lesser percentage of ownership interest than that held on April 17, 1997, and provided that corporation or partnership did not acquire additional QS through transfer after September 23, 1997.

(6) A corporation, partnership, or other entity, except for a publicly held corporation, that receives an initial allocation of QS assigned to categories B, C, or D must provide annual updates to the Regional Administrator identifying all current shareholders or partners and affirming the entity's continuing existence as a corporation or partnership.

(7) The exemption provided in paragraph (j) of this section may be exercised by a corporation, partnership, or other entity on a vessel owned by a person who is a shareholder in the corporation, partnership, or other entity, provided that the corporation, partnership, or other entity maintains a minimum of 20 percent interest in the vessel. For purposes of this paragraph, interest in a vessel is determined as the percentage of ownership in the corporation, partnership, or other entity by that person who is a shareholder in the corporation, partnership, or other entity, multiplied by the percentage of ownership in the vessel by that person who is a shareholder in the corporation, partnership, or other entity.

(k) Processing of fish other than IFQ halibut and IFQ sablefish.

Fish other than IFQ halibut or IFQ sablefish may be processed on a vessel on which persons:

(1) Are authorized to harvest IFQ halibut or IFQ sablefish based on allocations of IFQ resulting from QS assigned to vessel category A; or

(2) Are authorized to harvest IFQ sablefish based on allocations of IFQ resulting from QS assigned to vessel categories B or C unless any person aboard the vessel is authorized to harvest IFQ halibut based on allocations of IFQ resulting from QS assigned to vessel categories B, C, or D.

§ 679.43 Determinations and appeals.

(a) General.

This section describes the procedure for appealing initial administrative determinations made **in this title** under parts 300, 679, 680, and subpart E of **part 300**. This section does not apply to initial administrative determinations made under § 679.30(d).

(b) Who may appeal.

Any person whose interest is directly and adversely affected by an initial administrative determination may file a written appeal. For purposes of this section, such persons will be referred to as "applicant" or "appellant."

(c) Submission of appeals.

Appeals must be in writing and must be mailed to the

National Marine Fisheries Service
Office of Administrative Appeals (OAA)
P. O. Box 21668,
Juneau, AK 99802-1668

or delivered to

National Marine Fisheries Service
Attention: Appeals (OAA)
709 West 9th St., Room 453
Juneau, AK 99801

Appeals may be transmitted by facsimile to (907) 586-9361. Additional information about appeals may be obtained by calling (907) 586-7258, and by accessing Office of Administrative Appeals section of the NMFS Alaska Region website <http://www.fakr.noaa.gov>.

(d) Timing of appeals.

(1) If an applicant appeals an initial administrative determination, the appeal must be filed not later than 60 days after the date the determination is issued.

(2) The time period within which an appeal may be filed begins to run on the date the initial administrative determination is issued. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day.

(e) Address of record.

General. NMFS will establish as the address of record the address used by the applicant in initial correspondence to NMFS concerning the application. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(f) Statement of reasons for appeals.

Applicants must timely submit a full written statement in support of the appeal, including a concise statement of the reasons the initial administrative determination has a direct and adverse effect on the applicant and should be reversed or modified. If the applicant requests a hearing on any issue presented in the appeal, such request for hearing must be accompanied by a concise written statement raising genuine and substantial issues of adjudicative fact for resolution and a list of available and specifically identified reliable evidence upon which the factual issues can be resolved. The appellate officer will limit his/her review to the issues stated in the appeal; all issues not set out in the appeal will be waived.

(g) Hearings.

The appellate officer will review the applicant's appeal and request for hearing, and has discretion to proceed as follows:

(1) Deny the appeal;

(2) Issue a decision on the merits of the appeal, if the record contains sufficient information on which to reach final judgment; or

§ 679.43 Determinations and appeals

(3) Order that a hearing be conducted. The appellate officer may so order only if the appeal demonstrates the following:

(i) There is a genuine and substantial issue of adjudicative fact for resolution at a hearing. A hearing will not be ordered on issues of policy or law.

(ii) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be ordered on the basis of mere allegations or denials or general descriptions of positions and contentions.

(iii) The evidence described in the request for hearing, if established at hearing, would be adequate to justify resolution of the factual issue in the way sought by the applicant. A hearing will not be ordered if the evidence described is insufficient to justify the factual determination sought, even if accurate.

(iv) Resolution of the factual issue in the way sought by the applicant is adequate to justify the action requested. A hearing will not be ordered on factual issues that are not determinative with respect to the action requested.

(h) Types of hearings.

If the appellate officer determines that a hearing should be held to resolve one or more genuine and substantial issues of adjudicative fact, he/she may order:

(1) A written hearing, as provided in paragraph (m) of this section; or

(2) An oral hearing, as provided in paragraph (n) of this section.

(i) Authority of the appellate officer.

The appellate officer is vested with general authority to conduct all hearings in an orderly manner, including the authority to:

(1) Administer oaths.

(2) Call and question witnesses.

(3) Issue a written decision based on the record.

(j) Evidence.

All evidence that is relevant, material, reliable, and probative may be included in the record. Formal rules of evidence do not apply to hearings conducted under this section.

(k) Appellate officers' decisions.

The appellate officer will close the record and issue a decision after determining there is sufficient information to render a decision on the record of the proceedings and that all procedural requirements have been met. The decision must be based solely on the record of the proceedings. Except as provided in paragraph (o) of this section, an appellate officer's decision takes effect 30 days after it is issued and, upon taking effect, is the final agency action for purposes of judicial review.

(l) Disqualification of an appellate officer.

(1) The appellate officer will withdraw from an appeal at any time he/she deems himself/herself disqualified.

(2) The appellate officer may withdraw from an appeal on an appellant's motion if:

(i) The motion is entered prior to the appellate officer's issuance of a decision; and

(ii) The appellant demonstrates that the appellate officer has a personal bias or any other basis for disqualification.

(3) If the appellate officer denies a motion to withdraw, he/she will so rule on the record.

(m) Written hearing.

(1) An appellate officer may order a written hearing under paragraph (h)(1) of this section if he/she:

(i) Orders a hearing as provided in paragraph (g)(3) of this section; and

§ 679.43 Determinations and appeals

(ii) Determines that the issues to be resolved at hearing can be resolved by allowing the appellant to present written materials to support his/her position.

(2) After ordering a written hearing, the appellate officer will:

(i) Provide the appellant with notification that a written hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with 30 days to file a written response. The appellant may also provide documentary evidence to support his/her position. The period to file a written response may be extended at the sole discretion of the appellate officer, if the appellant shows good cause for the extension.

(3) The appellate officer may, after reviewing the appellant's written response and documentary evidence:

(i) Order that an oral hearing be held, as provided in paragraph (h)(2) of this section, to resolve issues that cannot be resolved through the written hearing process;

(ii) Request supplementary evidence from the appellant before closing the record; or

(iii) Close the record.

(4) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(n) Oral hearing.

(1) The appellate officer may order an oral hearing under paragraphs (h)(2) and (m)(3)(i) of this section if he/she:

(i) Orders a hearing as provided in paragraph (g)(3) of this section; and

(ii) Determines that the issues to be resolved at hearing can best be resolved through the oral hearing process.

(2) After ordering an oral hearing, the appellate officer will:

(i) Provide the appellant with notification that an oral hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with notification, at least 30 days in advance, of the place, date, and time of the oral hearing. Oral hearings will be held in Juneau, AK, at the prescribed date and time, unless the appellate officer determines, based upon good cause shown, that a different place, date, or time will better serve the interests of justice. A continuance of the oral hearing may be ordered at the sole discretion of the appellate officer if the appellant shows good cause for the continuance.

(3) The appellate officer may, either at his/her own discretion or on the motion of the appellant, order a pre-hearing conference, either in person or telephonically, to consider:

(i) The simplification of issues.

(ii) The possibility of obtaining stipulations, admissions of facts, and agreements to the introduction of documents.

(iii) The possibility of settlement or other means to facilitate resolution of the case.

(iv) Such other matters as may aid in the disposition of the proceedings.

(4) The appellate officer must provide the appellant with notification of a pre-hearing conference, if one is ordered, at least 30 days in advance of the conference. All action taken at the pre-hearing conference will be made part of the record.

(5) At the beginning of the oral hearing, the appellate officer may first seek to obtain stipulations as to material facts and the issues involved and may state any other issues on which he/she may wish to have evidence presented. Issues to be resolved at the hearing will be limited to those identified by the appellate officer as provided in paragraph (g)(3) of this section. The appellant will then be given an opportunity to present his/her case.

§ 679.43 Determinations and appeals

(6) During the oral hearing, the appellant has the right to present reliable and material oral or documentary evidence and to conduct such cross-examination as may be required in the interests of justice.

(7) After the conclusion of the oral hearing, the appellant may be given time by the appellate officer to submit any supplementary information that may assist in the resolution of the case.

(8) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(o) Review by the Regional Administrator.

An appellate officer's decision is subject to review by the Regional Administrator, as provided in this paragraph (o).

(1) The Regional Administrator may affirm, reverse, modify, or remand the appellate officer's decision before the 30-day effective date of the decision provided in paragraph (k) of this section.

(2) The Regional Administrator may take any of these actions on or after the 30-day effective date by issuing a stay of the decision before the 30-day effective date. An action taken under paragraph (o)(1) of this section takes effect immediately.

(3) The Regional Administrator must provide a written explanation why an appellate officer's decision has been reversed, modified, or remanded.

(4) The Regional Administrator must promptly notify the appellant(s) of any action taken under this paragraph (o).

(5) The Regional Administrator's decision to affirm, reverse, or modify an appellate officer's decision is a final agency action for purposes of judicial review.

(p) Issuance of a non-transferable license.

A non-transferable license will be issued to a person upon acceptance of his or her appeal of an initial administrative determination denying an

application for a license for license limitation groundfish, crab species under § 679.4(k) or scallops under § 679.4(g). This non-transferable license authorizes a person to conduct directed fishing for groundfish, crab species, or catch and retain scallops and will have specific endorsements and designations based on the person's claims in his or her application for a license. This non-transferable license expires upon the resolution of the appeal.

United State Code

TITLE 16 - CONSERVATION

CHAPTER 10 - NORTHERN PACIFIC HALIBUT FISHING

SUBCHAPTER IV - NORTHERN PACIFIC HALIBUT ACT OF 1982

U.S. Code as of: 01/26/1998

Sec. 773a. International Pacific Halibut Commission

(a) United States Commissioners

The United States shall be represented on the Commission by three United States Commissioners to be appointed by the President and to serve at his pleasure. The Commissioners shall receive no compensation for their services as Commissioners. Each United States Commissioner shall be appointed for a term of office not to exceed 2 years, but is eligible for reappointment. Any United States Commissioner may be appointed for a term of less than 2 years if such appointment is necessary to ensure that the terms of office of not more than two Commissioners will expire in any 1 year. A vacancy among the United States Commissioners shall be filled by the President in the manner in which the original appointment was made, but any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which the Commissioner's predecessor was appointed shall be appointed only for the remainder of such term. Of the Commissioners -

(1) one shall be an official of the National Oceanic and Atmospheric Administration; and

(2) two shall be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one shall be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one shall be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in [section 8101 et seq. of title 5](#) and [section 2671 et seq. of title 28](#). This subsection shall take effect on the 90th day after May 17, 1982.

(b) Alternate United States Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time alternate United States Commissioners to the commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

Source

(Pub. L. 97-176, Sec. 3, May 17, 1982, 96 Stat. 78.)

data base is password protected and access is limited. Paper records are maintained in secured file cabinets in areas that are accessible only to authorized personnel of DCA. NMFS, Alaska Region, contractors, to whom access to this information is granted in accordance with this system of records routine uses provision, are instructed on the confidential nature of this information.

RETENTION AND DISPOSAL:

All records shall be retained and disposed of in accordance with National Archives and Records Administration regulations (36 CFR subchapter B—Records Retention); Departmental directives and comprehensive records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Pacific States Marine Fisheries Commission, 612 West Willoughby Avenue, Juneau, Alaska 99802.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the System Manager. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

The Department's rules for accessing records, contesting contents, and appealing initial determinations are published in 15 CFR part 4b or may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information contained in the files is obtained from the individual EDRs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: February 25, 2005.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 05-4108 Filed 3-2-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 040825246-4246-01]

Privacy Act of 1974; System of Records

AGENCY: Department of Commerce.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA System-17, Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off the Coast of Alaska.

SUMMARY: This notice announces the Department of Commerce's (Department's) proposal for a new system of records under the Privacy Act. The National Marine Fisheries Service (NMFS), Alaska Region is creating a new system of records for permits and non-permit registrations used in a variety of management programs for commercial, recreational, and subsistence fisheries. NMFS requires the use of permits or registrations by participants in the fisheries of the EEZ off the coast of Alaska. Applications for various types of permits and registrations would be used to collect information from individuals under authority of the Magnuson-Stevens Act and the North Pacific Halibut Act of 1982. Applications for the various types of permits and registrations are necessary to determine the identification of participants and to evaluate the qualifications of the applicants.

DATES: To be considered, written comments must be submitted on or before April 4, 2005. Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802, Attn: Lori Durall, or delivered to the Federal Building, 709 West 9th Street, Juneau, Alaska, 99801.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907-586-7008.

SUPPLEMENTARY INFORMATION: The NMFS, Alaska Region is creating a new system of records for permits and non-permit registrations used in a variety of management programs for commercial, recreational, and subsistence fisheries. NMFS requires the use of permits or registrations by participants in the fisheries of the EEZ off the coast of Alaska and for halibut in all waters off Alaska. Applications for various types of permits and registrations would be used to collect information from individuals under authority of the Magnuson-Stevens Act and/or the Halibut Act of 1982. Applications for the various types of permits and registrations are necessary to determine the identification of participants and to evaluate the qualifications of the

applicants. NMFS, Alaska Region issues permits or registrations for the programs listed below. Not all of the permit applications request the social security number (SSN). Where the SSN is requested, bracketed information indicates whether the response to the request is voluntary [SSN voluntary] or mandatory [SSN mandatory]. If mandatory, the authority for this type of collection is the Debt Collection Improvement Act, 31 U.S.C. 7701.

- American Fisheries Act Permits (pollock): Catcher vessel [SSN voluntary], catcher/processor, mothership [SSN voluntary], inshore processor [SSN voluntary], inshore cooperative, inshore vessel contract fishing, and replacement vessel [SSN voluntary].
- Western Alaska Community Development Quota (CDQ) Program Halibut CDQ Permit (Pacific halibut), CDQ Landing Cardholder or Hired Master [SSN voluntary], Registered Buyer Permit [SSN voluntary].
- Exempted Fisheries Permit (NOAA-approved studies).
- Prohibited Species Donation Program Permit.
- Federal Fisheries Permit (groundfish catcher vessels, catcher/processors and motherships) [SSN voluntary].
- Federal Processor Permit (groundfish shoreside processors and stationary floating processors) [SSN voluntary].
- Halibut Subsistence Rural Resident Registration and Halibut Subsistence Alaska Native Tribal Registration (Pacific halibut).
 - Individual fishing quota (IFQ) halibut and sablefish permits (Pacific halibut and sablefish): Eligibility to receive quota share/individual fishing quota (QS/IFQ) [SSN mandatory], IFQ Hired Master [SSN voluntary], Registered Buyer Permit [SSN voluntary], Transfer eligibility certificate [SSN mandatory], QS/IFQ Transfer [SSN mandatory], QS/IFQ Transfer by Sweep-up [SSN mandatory].
 - License Limitation Program permit for groundfish, crab, or scallops [SSN voluntary].
 - Prohibited Species Donation Permit (Pacific halibut and salmon).
 - Crab IFQ of the Bearing Sea and Aleutian Islands Management Area (BSAI) off the coast of Alaska permits: Crab Quota Share (QS) or Processor Quota Share (PQS) [SSN mandatory], Crab Individual Fishing/Individual Processing IFQ/IPQ Permit [SSN voluntary], Registered Crab Receiver Permit [SSN mandatory], Federal Crab Vessel Permit [SSN voluntary], Application to Become An Eligible Crab

Community Organization (ECCO), Eligibility to Receive Crab QS/IFQ or PQS/IPQ by Transfer [SSN mandatory], Transfer of Crab QS/IFQ or PQS/IPQ [SSN mandatory], Transfer QS/IFQ to or from an ECCO, Application for Inter-cooperative transfer, Request for Replacement of Lost/Destroyed Permit or Registration [SSN voluntary].

COMMERCE/NOAA-17

SYSTEM NAME:

Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off the Coast of Alaska.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Marine Fisheries Service (NMFS), Alaska Region, 709 West Ninth Street, Juneau, Alaska 99801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners of catcher vessels, catcher/processors, motherships, and tender or support vessels. Owners of shoreside processors and stationary floating processors. Applicants seeking to become authorized distributors of prohibited species, salmon and halibut. Applicants seeking permission to fish in a manner that would otherwise be prohibited in order to conduct limited experimental fishing. Individuals who apply for any permit or registration, initially, annually, or by transfer. Individuals who wish to hire masters to fish a person's permit. Persons receiving halibut or sablefish individual fishing quota (IFQ) or Western Alaska Community Development Quota Program (CDQ) halibut from harvesting vessel; vessel operators and persons making certain types of transfers of IFQ fish and of CDQ halibut from the harvesting vessel. Persons applying for or receiving crab quota share (QS), processor quota share (PQS), IFQ, or individual processing quota (IPQ). Individuals hiring a master for crab. Persons offloading processed crab IFQ or receiving unprocessed crab harvested under an IFQ permit. Residents of an Alaska rural community as defined in 50 CFR 300.61. Members of Alaska Native tribes as defined in 50 CFR 300.61.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant name, address, telephone number, FAX number, e-mail address, date of birth, home telephone number, National Marine Fisheries Service internal identification number, and social security number (both mandatory and voluntary collections). Mandatory

collection of social security numbers for: (1) Individual fishing quota halibut and sablefish permits: Eligibility to receive quota share/individual fishing quota; Transfer eligibility certificate; Quota share/individual fishing quota Transfer; Quota share/individual fishing quota Transfer by Sweep-Up; (2) Crab individual fishing quota of the Bearing Sea and Aleutian Islands Management Areas off the coast of Alaska permits: Crab Quota Share or Processor Quota Share; Registered Crab Receiver Permit; Eligibility to Receive Crab quota share/individual fishing quota or processor quota share/individual processing quota by Transfer; Transfer of Crab quota share/individual fishing quota or processing quota share/individual processing quota. Community of residence. Name of Alaska Native tribe. Citizenship. Printed name and signature. Reference names. Name of intended hired master and same personal information as for applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1853; North Pacific Halibut Act of 1982, 16 U.S.C. 773; Debt Collection Improvement Act, 31 U.S.C. 7701.

PURPOSE(S):

This information will allow the identification and evaluation of participants in the various fisheries in the EEZ off the coast of Alaska; and of the Pacific halibut fishery in all waters off the coast of Alaska.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records or information contained therein may specifically be disclosed as a routine use as stated below. The Department will, when so authorized, make the determination as to the relevancy of a record prior to its decision to disclose a document.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, or rule, regulation or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or

order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed to a member of Congress submitting a request involving an individual when the individual has requested assistance from the member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

5. A record in this system of records may be disclosed to approved persons of the State of Alaska under an Interagency Cooperative Data Sharing Agreement, for the purpose of co-managing a fishery or for making determinations about eligibility for permits when State data are all or part of the basis for the permits.

6. A record in this system of records may be disclosed to North Pacific Fishery Management Council (Council) staff and contractors tasked with development of analyses to support Council decisions about fishery management programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized data base; electronic storage media; paper records in file folders in locked cabinets.

RETRIEVABILITY:

May be retrieved by NMFS internal identification number, name of applicant, vessel permit number, plant permit number, vessel name, or plant name; however, records can be accessed by any file element or any combination thereof.

SAFEGUARDS:

Buildings employ security systems with locks and access limits. Only those that have the need to know, to carry out the official duties of their job, have access to the data. Computerized data base is password protected and access is limited. Paper records are maintained in secured file cabinets in areas that are accessible only to authorized personnel. Safeguards exist on the computer

network where databases are stored. NMFS' contractors, to whom access to this information is granted in accordance with this system of records routine uses provision, are instructed on the confidential nature of this information.

RETENTION AND DISPOSAL:

All records shall be retained and disposed of in accordance with National Archives and Records Administration regulations (36 CFR subchapter b—Records Retention), Departmental directives and comprehensive records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

NMFS, Alaska Region, 709 West Ninth Street, Juneau, Alaska 99801.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the System Manager. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Requests from individuals regarding this system of records should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR part 4b. Use address contained in the notification section.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained provides information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: February 25, 2005.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 05-4109 Filed 3-2-05; 8:45 am]

BILLING CODE 3510-22-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing

effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the proposed renewal of its AmeriCorps*VISTA Project Progress Report (OMB Control Number 3045-0043). The previously approved Progress Report will expire on May 31, 2005.

This reinstatement with changes reflects the Corporation's intent to modify selected sections of the collection instrument to reflect changes in data considered "core reporting" information to meet a variety of needs, including adding new data elements as needed to ensure information collection captures appropriate data for the Corporation's required performance measurement and other reporting. **DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section by May 2, 2005. **ADDRESSES:** You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Attn. Carol Rogers, Senior Program Specialist, Room 9201, 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday except Federal holidays.

(3) By fax to: (202) 565-2789, Attention Ms. Carol Rogers, Senior Program Specialist.

(4) Electronically through the Corporation's e-mail address system: *crogers@cns.gov*.

FOR FURTHER INFORMATION CONTACT: Carol Rogers (202) 606-5000, ext. 419, or by e-mail at *crogers@cns.gov*.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and,
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

The Progress Report (PPR) was designed to assure that AmeriCorps*VISTA sponsors address and fulfill legislated program purposes, meet agency program management and grant requirements, and assess progress toward project plan goals agreed upon in the signing of the Memorandum of Agreement.

Current Action

The Corporation seeks to revise the previously used PPR to: (a) Enhance data elements collected via this information collection tool; (b) migrate the paper version of the form to the Corporation's electronic grants management system, eGrants; and (c) establish reporting periods consistent with the Corporation's integrated grants management and reporting policies.

The Corporation anticipates making available to all AmeriCorps*VISTA sponsors and grantees a revised PPR by April 1, 2005.

The revised PPR will be used by AmeriCorps*VISTA sponsors and grantees the report progress toward accomplishing work plan goals and objectives, reporting actual outcomes related to self-nominated performance measures meeting challenges encountered, describing significant activities, and requesting technical assistance. Submission requirements are proposed to remain unchanged: All projects will submit the PPR quarterly.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*VISTA Project Progress Report.

OMB Number: 3045-0043.

Agency Number: None.

Affected Public: AmeriCorps*VISTA sponsoring organizations, site supervisors, and members.