

[Federal Register: October 7, 1994]

DEPARTMENT OF COMMERCE

50 CFR Part 676

[Docket No. 940683-4277; I.D. 060994B]

RIN 0648-AE79

Limited Access Management of Federal Fisheries in and off of
Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 31 to the
Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering
Sea and Aleutian Islands Area (BSAI), Amendment 35 to the FMP for
Groundfish of the Gulf of Alaska (GOA), and a regulatory amendment
affecting the Pacific halibut fishery in and off of the State of Alaska
(Alaska or State). This action implements the Modified Block Proposal,
which is necessary to prevent excessive consolidation of the halibut
and sablefish fisheries. This action also clarifies the transfer
process for the Individual Fishing Quota (**IFQ**) program.

EFFECTIVE DATE: November 7, 1994; except the amendments to
Secs. 676.16, 676.20(f), and 676.22(g), which will become effective on
January 1, 1995.

ADDRESSES: Copies of Amendments 31, 35, and the Environmental
Assessment/Regulatory Impact Review/Final Regulatory Flexibility
Analysis for the Modified Block Proposal to the **IFQ** Program, may be
obtained from the North Pacific Fishery Management Council (Council),
P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The Modified Block Proposal, as well as the other alternatives for

the **IFQ** program for fixed-gear halibut and sablefish fisheries, are described in the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Analysis) dated December 17, 1993. Language amending the BSAI and the GOA FMPs was developed for the Modified Block Proposal, the Council's chosen alternative.

The amendments to the FMPs affect the sablefish fisheries in the exclusive economic zone off Alaska, which are managed in accordance with the BSAI and the GOA groundfish FMPs. The Council prepared both FMPs under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The domestic fishery for halibut in and off of Alaska is managed by the International Pacific Halibut Commission (IPHC), as provided by the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982 (Halibut Act). The Convention and the Halibut Act authorize the Council to develop regulations that are in addition to, but not in conflict with, regulations adopted by the IPHC affecting the U.S. halibut fishery. Under this authority, the Council may develop, for approval by NMFS, limited-access policies for the Pacific halibut fishery in Convention waters in and off of Alaska.

The Council acted under these authorities in recommending changes to the **IFQ** program for the halibut and sablefish fisheries. The Council, through these changes, intends to promote the conservation and management of the sablefish and halibut fisheries, and to further the objectives of the Magnuson Act and the Halibut Act.

QS Block Proposals

Concern over the potential for excessive consolidation of fishing privileges under the **IFQ** program was the impetus for the Modified Block Proposal. The Modified Block Proposal provides that (1) initial allocations of QS that represent less than 20,000 lb (9 mt) of **IFQ** in the implementation year will be issued as a block, (2) QS that represent 20,000 lb (9 mt) or more of **IFQ** in the implementation year will be ``unblocked'' QS, and (3) QS in a block cannot be separated and will have to be transferred as a block. For each species in each **IFQ** regulatory area, a person who does not hold any unblocked QS can hold up to two QS blocks for that area, but the sum of the two QS blocks cannot exceed use limits in 50 CFR 676.22 (e) and (f). A person who holds unblocked QS for an **IFQ** regulatory area can hold only one QS block for that area, provided that the total QS held, blocked and unblocked, for that **IFQ** regulatory area does not exceed use limits referenced above. The Modified Block Proposal also provides that QS

blocks resulting in less than 1,000 lb (0.5 mt) of **IFQ** for halibut, or 3,000 lb (1.4 mt) of **IFQ** for sablefish, in the implementation year can be combined. The QS block resulting from this combination cannot exceed 1,000 lb (0.5 mt) for halibut or 3,000 lb (1.4 mt) for sablefish. This ``sweeping-up'' provision will allow very small QS allocations to be combined into ``fishable'' amounts.

The Modified Block Proposal is intended to reduce the maximum potential consolidation relative to the current **IFQ** program. The Analysis indicated that, if actual consolidation is proportional to the estimates of maximum potential consolidation, more QS holders are likely to remain in the halibut and sablefish fisheries under the Modified Block Proposal than under the current **IFQ** program.

The Modified Block Proposal will not interfere with the opportunities currently available under the **IFQ** program for larger operations, because QS allocations for an **IFQ** regulatory area that represent 20,000 lb (9 mt) or more of **IFQ** in 1994 will remain unblocked. The Council decided that the Modified Block Proposal would protect small producers, part-time participants, and entry-level participants--who may tend to disappear because of excessive consolidation under the current **IFQ** program--without compromising the flexibility and the economic efficiency of the **IFQ** program as a whole.

Whether QS is blocked or unblocked will be determined by the QS pools for each **IFQ** regulatory area as they exist on October 17, 1994. Using a specific date to calculate whether to block QS ensures that all persons are treated in a similar manner, regardless of when their QS is issued. October 17, 1994, was chosen as the date to calculate QS because it was long enough after the application period, which ended July 15, 1994, to allow the QS pools to achieve QS amounts reflective of their eventual range, but long enough before the 1995 fishing season to allow for transfers of QS for that fishing season.

Transfer of QS Blocks

Blocked and unblocked QS will be transferable subject to the approval of the Director, Alaska Region, NMFS (Regional Director), and compliance with the transfer regulations found in 50 CFR part 676. Changes are made to the transfer procedure in 50 CFR part 676 to accommodate the Modified Block Proposal, and to clarify further the transfer process. Further information on the rationale for these changes, and on the Modified Block Proposal, can be found in the proposed rule published in the Federal Register on June 28, 1994 (59 FR 33272).

Changes From the Proposed Rule in the Final Rule

1. The amendatory language to Sec. 676.20 in the proposed rule was numbered in such a manner that existing paragraphs (a)(1) Qualified persons and (a)(2) Vessel categories would have been deleted. This was a technical oversight. Paragraphs (a)(1) and (a)(2) of Sec. 676.20 will remain as published on November 9, 1993 (58 FR 59375), and will not be amended by this final rule. The amendatory language in paragraphs (a)(1) and (a)(2) of Sec. 676.20, which was in the proposed rule published June 28, 1994, (59 FR 33272) will be incorporated in paragraph (a) of Sec. 676.20 of this final rule.

2. The reference to Sec. 676.22 in Sec. 676.21(c)(2) was changed to Sec. 676.22(j) to indicate the paragraph of the regulatory text intended to be referenced by the citation.

Response to Comments

Twenty-two letters of comments were received regarding the Modified Block Proposal. Twelve letters provided comments that supported the Modified Block Proposal, eight letters provided comments in opposition, and two letters provided no comments. These comments, which are summarized and responded to below, were considered during the formulation of the final rule.

Comment 1: The Modified Block Proposal is overly restrictive, especially to the smaller vessel categories.

Response: Though the Modified Block Proposal will have a larger impact on the smaller vessel categories, the determining factor of whose QS will be blocked is the amount of catch landed and duration of participation during the qualifying years, not vessel size. Some owners/lessees of large and small vessels will be issued QS as a block, and some owners/lessees will be issued unblocked QS. More owners/lessees of smaller vessels will have blocked QS due to smaller harvests during the qualifying years.

Comment 2: Most of the QS issued in smaller vessel categories will be blocked. The QS in small blocks will have less value, making those blocks difficult to market.

Response: The response to Comment 1 addresses why most QS issued in smaller vessel categories will be blocked. Any determination on the value of blocked or unblocked QS, whether in large or small quantities, is purely speculative. Blocked QS may be more or less valuable than unblocked QS, depending upon market forces. Small blocks, with their lesser overall dollar value, will make the **IFQ** Program more accessible to new entrants. Furthermore, the Modified Block Proposal allows very small blocks to be combined into fishable amounts under the ``sweep-up'' provision.

Comment 3: All QS should be blocked or unblocked. It is inequitable and discriminatory to block some QS and not other QS.

Response: Blocking all QS was considered along with the Modified Block Proposal in the Analysis (see Sitka Block Alternative and Full/Partial Block Alternative). The Council selected the Modified Block Proposal from among the other block proposals because: (1) Like the other block alternatives, it prevented excessive consolidation of QS; and (2) unlike the other block alternatives, it did not interfere with the opportunities currently available to larger operations in the fixed-gear Pacific halibut and sablefish fisheries by blocking all QS.

The guidelines for FMPs at 50 CFR 602.14 (national standard 4--Allocations) indicates that total parity in allocations is not necessary to comport with fairness and equity. Allocation decisions by the Council may be fair and equitable if those decisions are justified in terms of the objectives of the FMP amendment. The Modified Block Proposal was designed to preserve the way of life for fishermen and their families and the dependence of local communities on the fishery, which are legitimate social factors provided in the guidelines and identified by the Council. Furthermore, the Modified Block Proposal does not discriminate between residents of different states, which is the standard specified at Sec. 602.14(b).

Comment 4: The Modified Block Proposal is inequitable because persons who were initially issued QS who owned/leased large vessels will receive most of their QS unblocked, allowing them to purchase more QS up to the use cap. Persons who were initially issued QS, however, who owned/leased small vessels will be issued their QS in blocks, preventing them from purchasing QS up to the use cap.

Response: As explained in the response to Comment 3, the Modified Block Proposal is not inequitable under the guidelines in 50 CFR part 602. Furthermore, although the Modified Block Proposal restricts the number of QS blocks that can be held by a person (up to two blocks per species and area), it does not prevent a person from purchasing QS up to the use cap. For example, if a person is initially issued QS in a block, that person, like a person who was initially issued unblocked QS, can purchase unblocked QS up to the use cap.

Comment 5: The Modified Block Proposal creates a monopoly that violates the anti-trust laws. The **IFQ** Program should be administered under a ``free market'' system. Gear restrictions, rather than limited access, should be used to manage the resource.

Response: The Modified Block Proposal does not create a monopoly, nor does it violate anti-trust laws. The Modified Block Proposal was designed to reduce consolidation by ensuring that more persons would hold QS under the Modified Block Proposal than may have held QS without

it. The consolidation that may have occurred without the Modified Block Proposal could be more accurately characterized as a process that tends toward monopolistic control of the resource.

QS, whether blocked or unblocked, is a harvest privilege that may be transferred. The value of transferred QS is not limited by the program. The value of QS will be determined by market forces, and, therefore, the **IFQ** Program is administered under a ``free market'' approach.

Although gear restrictions can assist in managing a fishery, effective management requires a holistic approach. The **IFQ** Program is one of the many management tools used by NMFS to manage effectively the Pacific halibut and sablefish fisheries.

Comment 6: The Modified Block Proposal will create different classes of QS holders depending on how much QS each person is issued. The restrictions on the amount of blocks that can be held, along with the various sizes of blocks, may necessitate the use of brokerage firms to facilitate transfers.

Response: The Modified Block Proposal does not create different classes of QS holders. As explained in the response to Comment 1, the Modified Block Proposal establishes the criteria for determining whether QS will be blocked and unblocked. A person, if issued QS in a block, is not prohibited from obtaining unblocked QS. The transferable nature of QS will allow persons to hold blocked and/or unblocked QS, as long as the other requirements on holding QS are met.

The Modified Block Proposal may increase QS transaction costs because some persons (i.e., those who already hold the maximum blocks allowed) will be required to transfer away one block before another block can be transferred to them. This cost may be exacerbated if the person who is making this transaction has a specific QS amount as a target. The Analysis for the Modified Block Proposal contemplated and addressed this increase in transaction costs for transfers. NMFS concluded from the Analysis that the benefits of curbing excessive consolidation outweighed the increase of transaction costs for transfers.

Comment 7: Because blocks cannot be divided under the Modified Block Proposal, seizure of assets by the Internal Revenue Service to collect on delinquent taxes would mean that the entire block would be seized, rather than just the portion of QS necessary to satisfy the delinquency.

Response: This course of events (i.e., seizing the entire block to satisfy a debt) was evaluated during the formulation of the rule. NMFS decided that the administrative costs associated with dividing blocks was not justifiable, especially because any inconvenience that may

occur by seizing the entire block is due to the QS block holder's own delinquency. QS blocks can be sold to satisfy the existing debt like any other indivisible asset. After the debt has been satisfied, excess funds can be returned to the person whose block had been seized.

Comment 8: The Modified Block Proposal will create greater administrative and enforcement costs for NMFS.

Response: There will be no significant increase in administrative or enforcement costs because of the Modified Block Proposal. The Modified Block Proposal will affect the initial allocation and transfer of QS. This can be monitored by the computer at Restricted Access Management Division, NMFS, Alaska Region, which is currently programmed to perform this task. The Modified Block Proposal will not affect **IFQ** resource harvesting or deliveries, minimizing any impacts on enforcement.

Comment 9: The Modified Block Proposal will decrease consolidation of fishing operations under the **IFQ** program.

Response: The Modified Block Proposal was intended to prevent excessive consolidation that might have occurred under the **IFQ** program. This rationale is discussed at length in the Analysis for the Modified Block Proposal and the proposed rule published in the Federal Register on June 28, 1994 (59 FR 33272). In brief, the Modified Block Proposal will prevent excessive consolidation by blocking a portion of the total amount of QS issued and by restricting the number of blocks that can be held by an individual. These actions will increase the potential minimum holders of QS to an amount greater than under the status quo.

Comment 10: The Modified Block Proposal will create block sizes that will provide easy access to the **IFQ** fisheries and maintain diversity in the longline fleet.

Response: Under the Modified Block Proposal, all initially issued QS that would result in less than 20,000 lb (9 mt) of **IFQ** using the 1994 total allowable catch (TAC) would be blocked. This means that a variety of block sizes will be created, and will be available for transfer. Persons who would like to enter the fishery would be able to secure a smaller block, and then subsequently transfer the smaller block for a larger block as the fishing operation grows and the experience of the person increases. This ``step'' approach, made possible by the Modified Block Proposal, assists in the growth of each operation to efficient economies of scale.

Also, the size and amount of QS blocks will remain constant, except for consolidation of the smallest blocks under the ``sweep-up'' provision. This means that at least the minimum number of QS block holders will hold blocks of various sizes, providing diversity in the longline fleet.

Comment 11: The Modified Block Proposal will benefit coastal communities dependent on the **IFQ** fisheries by reducing the amount of QS that can be consolidated into larger operations, ensuring a more uniform landing pattern of fishery product, and providing higher levels of harvesting employment.

Response: NMFS concurs with this comment. Along with reducing excessive consolidation, the Modified Block Proposal was designed to benefit local coastal communities traditionally dependent on the Pacific halibut and sablefish fixed-gear fisheries. As explained earlier, QS blocks will maintain diversity in the longline fleet by reducing the amount of QS available for consolidation by larger operations. Also, smaller, locally owned and operated vessels are more likely to deliver to local communities than larger vessels. This is because large vessels typically have the capacity to store large quantities of fishery product for extended periods of time, thus enabling these vessels to deliver to ports other than those located in local coastal communities.

By increasing the potential minimum number of QS holders, the Modified Block Proposal will provide more employment for fishermen and crew members. By increasing the potential for delivery of fishery product in coastal communities, the Modified Block Proposal will provide more employment in the fishery processing sector for those communities.

Comment 12: The Modified Block Proposal can be repealed or modified at a later date if it turns out to be overly restrictive.

Response: NMFS concurs with this comment. On the other hand, if the Modified Block Proposal is not adopted at this time, adoption at a later time will not accomplish the same goals. Transfers and consolidation of QS that could occur if the Modified Block Proposal is not in place when the **IFQ** program is implemented might cause irrevocable damage to coastal communities and the small vessel fleet.

Classification

The Council prepared a final regulatory flexibility analysis (FRFA) that indicates the action will have a significant economic impact on a substantial number of small entities. By reducing consolidation, the Modified Block Proposal may increase the total cost of harvesting the resource, thereby decreasing the net economic benefits of the **IFQ** Program and increasing harvesting costs to small entities. The analysis in the FRFA also indicates that by reducing consolidation, the Modified Block Proposal may result in higher levels of harvesting employment. Higher levels of harvesting employment and maintenance of diversity in fishing operations participating in the **IFQ** Program are the main goals

of the Modified Block Proposal. A copy of the FRFA is available from the Council (see ADDRESSES).

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 676

Fisheries, Reporting and recordkeeping requirements.

Dated: October 3, 1994.

Gary Matlock,
Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 676 is amended as follows:

PART 676--LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

1. The authority citation for 50 CFR part 676 continues to read as follows:

Authority: 16 U.S.C. 773 et seq. and 1801 et seq.

Sec. 676.16 [Amended]

2. Section 676.16 is amended by removing and reserving paragraphs (i) and (n).

3. Section 676.20 is amended by revising paragraph (a) and the first sentence of the introductory text of paragraph (f) to read as follows:

Sec. 676.20 Individual allocations.

* * * * *

(a) Initial allocation of quota share. The Regional Director shall initially assign to qualified persons, on or after October 18, 1994, halibut and sablefish fixed gear fishery QS that are specific to **IFQ** regulatory areas and vessel categories. QS will be assigned as a block in the appropriate **IFQ** regulatory area and vessel category if that QS would have resulted in an allocation of less than 20,000 lb (9 mt) of **IFQ** for halibut or sablefish based on the 1994 TAC for fixed gear in those fisheries for specific **IFQ** regulatory areas and the QS pools of those fisheries for specific **IFQ** regulatory areas as of October 17,

1994.

* * * * *

(f) * * * The Regional Director shall assign halibut or sablefish IFQs to each person holding unrestricted QS for halibut or sablefish, respectively, up to the limits prescribed at Sec. 676.22 (e) and (f). *

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4. Section 676.21 is revised to read as follows:

Sec. 676.21 Transfer of QS and **IFQ**.

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, except that 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**.

(a) Transfer procedure. A person who receives QS by transfer may not use **IFQ** resulting from that QS for harvesting halibut or sablefish with fixed gear until an Application for Transfer of QS/**IFQ** (Application for Transfer) is approved by the Regional Director. The Regional Director shall provide an Application for Transfer form to any person on request. Persons who submit an Application for Transfer to the Regional Director for approval will receive notification of the Regional Director'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. QS or **IFQ** accounts affected by an Application for Transfer approved by the Regional Director will change on the date of approval. Any necessary **IFQ** permits will be sent with the notice of the Regional Director's decision.

(b) Application for Transfer approval criteria. Except as provided in paragraph (e) of this section, an Application for Transfer will not be approved until the Regional Director has determined that:

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

(i) By initial assignment by the Regional Director as provided in Sec. 676.20(a); or

(ii) By approved transfer;

(2) The person applying to receive the QS or **IFQ** meets the requirements of eligibility in paragraph (c) 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 Sec. 676.22 (e) or (f);

(7) The transfer would not violate the provisions of paragraph (f) of this section; and

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

(c) Eligibility to receive QS or **IFQ** by transfer. 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 Director. The Regional Director 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 Director. The Regional Director shall provide an Application for Eligibility form to any person on request.

(1) 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.

(2) 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 (c)(1)(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 Sec. 676.22(j), that person must resubmit an Application for Eligibility before submitting, or with, the Application for Transfer.

(3) The Regional Director's approval of an Application for Eligibility will be mailed to the person by certified mail.

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

(i) The disapproved Application for Eligibility; and

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

(5) 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 Sec. 676.11;

(iii) An incomplete Application for Eligibility; or

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

(d) Transfers of QS blocks. (1) A QS block must be transferred as an undivided whole, unless the size of the QS block exceeds the use limits specified at Sec. 676.22. If the QS block to be transferred exceeds the use limits specified at Sec. 676.22, the Regional Director 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) QS blocks representing less than 1,000 lb (0.5 mt) of **IFQ** for halibut or less than 3,000 lb (1.9 mt) for sablefish, based on the factors listed in Sec. 676.20(a), for the same **IFQ** regulatory area and vessel category, may be consolidated into larger QS blocks, provided that the consolidated QS blocks do not represent greater than 1,000 lb (0.5 mt) of **IFQ** for halibut or greater than 3,000 lb (1.4 mt) of **IFQ** for sablefish based on the factors listed in Sec. 676.20(a). A consolidated QS block cannot be divided and is considered a single block for purposes of use and transferability.

(e) 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 Director will approve the Application for Transfer with restrictions. The Regional Director 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:

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

(2) The Regional Director 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.

(f) Transfer restrictions. (1) Except as provided in paragraph (e) or paragraph (f)(2) of this section, only persons who are **IFQ** crew members, or that were initially assigned catcher vessel QS, and meet the other requirements in this section may receive catcher vessel QS.

(2) Except as provided in paragraph (f)(3) of this section, only persons who are **IFQ** crew members may receive catcher vessel QS in **IFQ** regulatory area 2C for halibut or in the **IFQ** regulatory area east of 140 deg. W. long. for sablefish.

(3) Catcher vessel QS initially assigned to an individual may be transferred to a corporation that is solely owned by the same individual. Such transfers of catcher vessel QS in **IFQ** regulatory area 2C for halibut or in the **IFQ** regulatory area east of 140 deg. W. long. for sablefish will be governed by the use provisions of Sec. 676.22(i); the use provisions pertaining to corporations at Sec. 676.22(j) shall not apply.

(4) The Regional Director will not approve an Application for Transfer of catcher vessel QS subject to a lease or any other condition of repossession or resale by the person transferring QS, except as provided in paragraph (g) of this section, or by court order, operation of law, or as part of a security agreement. The Regional Director 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.

(g) Leasing QS (applicable until January 2, 1998). A person may not use **IFQ** resulting from a QS lease for harvesting halibut or sablefish until an Application for Transfer complying with the requirements of paragraph (b) of this section and the lease agreement are approved by the Regional Director. A person may lease no more than 10 percent of that person's total catcher vessel QS for any **IFQ** species in any **IFQ** regulatory area to one or more persons for any fishing year. After approving the Application for Transfer, the Regional Director shall change any **IFQ** accounts affected by an approved QS lease and issue all necessary **IFQ** permits. QS leases must comply with all transfer requirements specified in this section. All leases will expire on December 31 of the calendar year for which they are approved.

5. Section 676.22 is amended by revising paragraph (g) to read as follows:

Sec. 676.22 Limitations on the use of QS and **IFQ**.

* * * * *

(g) Limitations on QS blocks. No person, individually or collectively, may hold more than two blocks for each species in any **IFQ** regulatory area, except that if that person, individually or collectively, holds unblocked QS for a species in an **IFQ** regulatory area, such person may only hold one QS block for that species in that **IFQ** regulatory area. 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.

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