

May 28, 2009

Mr. Don Hansen
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

Re: Agenda Item E.11, Amendment 20 – RELEASE OF INFORMATION
RELATING TO INDIVIDUAL PERMIT ALLOCATION FORMULA

Dear Chairman Hansen:

The Council has been asked before and at the November 2008 meeting; before and at the March 2009 meeting; before and at the April 2009 meeting; and most recently at the May Groundfish Allocation Committee meeting; “please release council staff’s allocation formula and amounts to individual permit owners.” The request for this information has also been made via letter or public comment by each of the three Coastal state representatives on the Council.

There are no legal or other barriers to providing valuable information to individual permit owners so that they might be able to provide informed public comment on the decisions that have been made and are yet to be made by the Council.

I urge you to provide this information to individual permit owners before the June Council meeting.

As always, I appreciate your service and attention to this very important issue. I have attached with this request a few pages of permit owners who have signed in support of this effort for information. These are independent vessel owners.

Sincerely,

Craig Urness

April 28, 2009

Dear Mr. Chairman and Council Members:

Please provide us with our permit allocation information as soon as practical. We have no way to accurately determine how the Trawl IQ program will impact us. The only persons with accurate information are those who developed the allocation formulas; Pacific Fisheries Management Council staff. That information, with the permission of the states, must be shared, confidentially, with each individual permit owner.

2011 is rapidly approaching. As vessel and permit owners, we need to understand how the proposed regulatory changes impact our businesses. Decisions about different investments in our businesses depend on us understanding our future. Many of the daily business decisions we make today are based on our understanding of what we can do in the near future. Without the changes, we can reasonably estimate what we will be doing. In the face of these sweeping regulatory changes, we simply do not know.

There is no rational basis for NOT sharing the allocation formula to individual permit owners. Your prompt attention to our concerns is appreciated.

Thank you.

F/V SEA CLIPPER

x.  *Ken P. Beards*

F/V ORION

x. *Ken P. Beards*

F/V Verda Marie

x. *Denny Stopen*

F/V _____

x. _____

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F/V	<u>Washington</u>	x.	<u>Matt Hall</u>
F/V	<u>Sunder</u>	x.	<u>JM Cup</u>
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____



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F/V	<u>EXCALIBUR</u>	x.	<u>M. S. R.</u>
F/V	<u>PACIFIC</u>	x.	<u>Jim M. Sears</u>
F/V	<u>MISS JOE</u>	x.	<u>Jim M. Sears</u>
F/V	<u>SEEKER</u>	x.	<u>Jim M. Sears</u>
F/V	<u>LAST STRAW</u>	x.	<u>Brett Hagan</u>
F/V	<u>MISS BEERIE</u>	x.	<u>Stan Johnson</u>
F/V	<u>WESTERN BREEZE</u>	x.	<u>Ray King</u>
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____
F/V	_____	x.	_____

**Amendment 20 – Divestiture and Control
Issues Related to Initial Allocation**

Prepared by **Erika Feller, Marine Project Director**
The Nature Conservancy
201 Mission Street, 4th Floor
San Francisco, California 94105
(415) 281-0453 or efeller@tnc.org

Introduction

The Nature Conservancy requests that the Pacific Fishery Management Council (PFMC) authorize participants in the fishery to divest of excess quota share (QS) as a means of bringing all participants into compliance with ownership and control caps (hereafter referred to as “control caps”). One of the reasons to implement an Individual Fishing Quota (IFQ) system is to create a market mechanism for achieving fishery goals. A market mechanism should be used to transition participants in the fishery to the established control caps.

Specifically we request that the PFMC take the following actions at the June 2009 meeting:

- Establish reasonable individual control limits for target and overfished species that achieve Magnuson Stevens Fishery Conservation and Management Act (MSFCMA) requirements to avoid an individual gaining excessive control over the fishery.
- Allow participants to receive QS based on the allocation formula adopted by the PFMC that includes catch history related to permits they held as of the date of the PFMC final rationalization decision – November 7, 2008.
- If an individual is eligible for and receives more QS than the individual limit, he or she must divest of the excess within five years of the date of implementation of the IFQ. Individuals should have all quota pounds (QP) associated with these QS deposited in their account each year until the QS is divested.
- QS that is not sold or transferred within the specified divestiture period should be forfeited to the National Marine Fisheries Service to be redistributed through an auction with the proceeds available to federal or state agencies to support implementation of the IFQ program or as grants to address impacts of the transition.

Further, as the PFMC agreed at its April 2009 meeting, guidelines for Community Fishing Associations will be developed as a trailing amendment to Amendment 20 in autumn 2009. We request that the PFMC authorize these entities to acquire quota share during the divestiture period and consider creating incentives to encourage divestiture to community fishing associations that support long-term community economic stability. For example, the PFMC could require that QP associated with excess QS might be used by a Community Fishing Association (CFA) and the QS subsequently purchased by the CFA.

Description of the Problem to be Solved by Divestiture

In November 2008, the PFMC agreed that initial allocations of groundfish trawl QS in excess of the individual accumulation limits would not be “grandfathered”¹. At that time, the PFMC had not yet established control caps on individual QS holdings, but did agree that control limits were to be part of the program and deferred the decision until March 2009. During the PFMC meeting

in March 2009, the PFMC voted to recommend that individual control be capped at 2.7% in aggregate, with different control caps for individual species.²

However, a number of participants in the trawl groundfish fishery hold permits with catch history that would qualify for them for more than 2.7% aggregate QS or such that they would qualify for QS for a species in excess of one or more species caps. Presumably, participants in either situation would receive QS up to the cap and see the remainder redistributed among the rest of the fleet.

The argument in support of this approach is that those who “speculated” should not be rewarded for this behavior with a windfall benefit on initial allocation. We would argue that the situation is considerably more complex than this statement would suggest. First, as the program is currently conceived all permit holders will receive a windfall benefit on initial allocation as they receive QS that in other fisheries has proven to be worth considerably more than the market price of Limited Entry permits. It is reasonable to expect the same will be true in this fishery. The issue is one of degrees and the reasons behind those differences in degree. Second, some participants in the fishery, such as The Nature Conservancy, acquired permits and catch history that likely places them in this situation. This was not done in an effort to speculate on the future value of QS associated with those permits, rather to mitigate the economic impacts of a habitat protection measure on fishermen and to find ways to redeploy those permits for the benefit of the resource, communities and fishermen. TNC’s view of the regulatory context was that the risk was acceptable that our investment would be honored and future plans possible. Others perhaps took a similar view of the likelihood that some sort of grandfathering would be allowed – given that this alternative was viable until the November 2008 meeting and in view of the precedent set by other U.S. IFQ programs. Finally, during the six years that this program has been under development the economics of the fishery have evolved – making continued participation by some impossible, and inspiring others to make the business decision to increase their permit holdings.

Further, much has been made of the argument that participants should have been aware that the program would include accumulation limits and that it is possible that permits/catch history accrued after the control date would not be considered in these decisions. The control date notice warns that catch history based on fishing activity after the control date might not be credited under the rationalization program, but it does not warn that permits and catch history acquired after the control date might not be credited. The principal purpose of a control date notice is to discourage increased fishing intensity in a race to build catch history after a transition announcement is made; not as an attempt to freeze the fishery in time. We request that the PFMC carefully consider this distinction, the ambiguity that has surrounded this question over the years that the PFMC has invested in developing the IFQ program, and the potentially disruptive effects of applying control caps at initial allocation as factors that support allowing divestiture.

The MSFCMA requires that the decision regarding initial allocation be fair and equitable and consider the social and cultural framework of the fishery, which is compatible with the PFMC objective to minimize adverse impacts on fishing communities. Many of the “impacts” of the transition to an IFQ system stem from the transition from one management system to another. The NMFS Technical Memorandum on Limited Access Privilege Programs points out that flexible transferability rules and non-expiring harvest privileges mean that allocation decisions

need only be made once, arguably a benefit to managers. Provided the program is well-designed with clear and enforceable control limits and other appropriate constraints, the market will reshape the fishery making the exact makeup of the initial allocation decision entirely independent from these other considerations – such as control limits.

The forced redistribution of QS upon initial allocation currently contemplated is inconsistent with MSFCMA considerations and would create several significant transition problems that the PFMC should carefully consider and address.

1. The current redistribution approach is inequitable and dislocating. MSFCMA requires that Councils developing a limited access privilege program develop procedures to ensure fair and equitable initial allocations, including consideration of: (i) current and historical harvests; (ii) employment in the harvesting and processing sectors; (iii) investments in and dependence on, the fishery; and (iv) the current and historical participation of fishing communities. Section 303A(c)(5)(A). Redistributing catch shares upon initial allocation would disrupt current harvest patterns, disrupt employment in the harvesting and processing sectors, expropriate investments made in limited entry permits that generate catch shares in excess of the QS cap, and disrupt current patterns of fishing community participation in the Pacific Coast groundfish fishery. It is very difficult to see how this aspect of the trawl IFQ program could be defended as “fair and equitable”.
2. Practical issues loom if Control Caps are applied at initial allocation. Even if the important policy considerations are not persuasive, there are practical problems associated with applying the QS cap at initial allocation.
 - a. The only method for complying with the QS caps, other than simply accepting an uncompensated loss of QS, would be to divest permits (those that represent the excessive catch history) before QS is issued. However, until QS is issued, participants have no way of accurately calculating the amount of QS that will be generated by the permits they hold. The catch history data that could be used to estimate QS allocations are confidential, and are not available to persons who did not hold the related limited entry permit when the catch history was accrued. Further, some states are unable to release any catch history out of capacity constraints or other concerns about the data. Therefore, it is not possible for participants to accurately calculate the amount of catch history they would have to divest to be in compliance with the anticipated QS cap. While the calculator developed by the Fishermen’s Marketing Association is an excellent tool, without accurate data it is unlikely to provide useful guidance for a divestiture strategy.
 - b. In the event that excess QS are redistributed, there is no policy guidance for how that redistribution would be taken. An individual could be within the limit for each and every species in his QS portfolio and still exceed the aggregate accumulation limit. In such a situation, how would the exact amount and composition of the overage be calculated for the purpose of redistribution? Would that individual have the option of maximizing his initial allocation of the most valuable species and redistribute less valuable species? Would redistribution be taken evenly across all species or would there be some effort to ensure that redistribution leaves the individual with a mix of QS that is compatible with their current harvesting strategies?

- c. Under the current limited entry permit system, it is not possible to transfer a fraction of the catch history earned under a permit. It has been suggested that those permit holders who have holdings that would put them in excess of caps should divest of permits in advance of the implementation of the QS system. To divest catch history, a potential QS recipient will be forced to transfer the limited entry permit on which the history was earned. As a result, persons who hold a single permit are faced with an “all or nothing” divestiture choice, and persons who hold more than one permit could be forced to divest far more catch history than necessary to comply with QS control caps.

For these reasons, every other rationalization program implemented in the U.S. has included some type of initial allocation provision that grants initial recipients with a limited exemption from otherwise applicable QS holding and use caps. Including a first generation grandfather or divestiture clause mitigates the social and economic disruption associated with the transition to a rationalized fishery, and provides the initial recipients of QS with the opportunity to maintain their fishery participation at a level commensurate with their investments in and dependence on the fishery. This will also insure a smoother transition in which the desired QS consolidation limits are effectively applied as QS changes hands.

What are the benefits of divestiture?

Initial allocation should be as administratively simple as possible and should rely on generally available and transparent data. The potential for appeals and challenges increases when large values are at stake. Offering full initial allocation with divestiture will be easier to administer and predict and is more likely to minimize costly and implementation-delaying appeals or challenges.

The benefits of divestiture are:

- Individuals will be allowed to recoup their investment in the fishery and will not have catch shares expropriated.
- The likelihood of challenges to the rationalization program based on an inequitable or ambiguous application of QS caps will be reduced.
- Fishing communities will have time to organize, find financing, and purchase quota in the amounts necessary to preserve their access.

The mitigation that divestiture offers has special significance in connection with the Pacific Coast groundfish trawl IFQ program. California Central Coast fishermen and fishing communities are building a Community Fishing Association (CFA) that is designed to stabilize their fishing economies through the transition to rationalization and provide for long-term economic stability. The CFA initiative depends on the ability to maintain the QS that have been earned in the Central Coast and aggregated through trawl limited entry permit purchases, and to employ that access under arrangements that the PFMC has twice approved through Exempted Fishing Permits. It will be cruel irony indeed if the PFMC applies QS consolidation limits in a manner that precludes any chance for the Central Coast CFA's success, or the ability of other communities to develop similar organizations, and instead exacerbates the disruption associated

with transitioning to rationalization by redistributing catch shares that are currently anchored in Central Coast communities.

Will there be efforts to circumvent the control rules if divestiture is permitted?

Implementing the IFQ will require development of new regulations and systems to ascertain the amount of QS an individual controls, either directly through ownership or that they may indirectly “control through other means.” While control through direct ownership may be relatively simple to manage, ascertaining and tracking “control through other means” may be more difficult. In other fisheries, the types of relationships have been described that might indicate affiliation or a control relationship that might trigger the control limit. Some examples are included in Table 1.

For example, Appendix A includes copies of IFQ transfer and ownership change documentation required for the Alaska halibut and sablefish fishery. This is included as an example of the type of application used to gather information necessary to determine whether a particular transaction would run afoul of control rules, including relationships between the buyer and seller, information on partnerships, sale price, etc. (Similar documentation is used in other IFQ fisheries.) By contrast, the transfer form for a West Coast Limited Entry Permit (LEP) – used for trawl permit transfers (leases and sales) – is mainly used to determine eligibility to hold an LEP. With the documentation required, it seems unlikely NMFS will have access to information necessary to understand and regulate permit transactions that may involve affiliates or other control relationships until after the IFQ is implemented.

In all likelihood, the agency will develop similar rules and tests to determine where relationships exist that might affect control. We might expect that initial allocation will include some sort of application process in which eligible applicants must answer a series of questions about their business relationships and their holdings that would allow the agency to accurately ascertain the amount of QS – both species and in aggregate – under that individual’s control either directly or through other means. Presumably, this disclosure requirement would be reinforced by penalties for false or incomplete statements. Further, it is likely that any subsequent QS transactions would involve a similar disclosure. These disclosure requirements, which should be part of the IFQ program, would help fishery managers track inappropriate divestiture transactions – those designed to ensure that the seller retains some degree of control despite giving up ownership.

Finally, the value of QS will remain unsettled until it is allocated and a market develops. In the mean time, estimating catch history to QS ratios and calculating QS values will be a highly speculative activity, at best, making transactions difficult and risky. Further, allowing divestiture after initial allocation may actually facilitate implementation and enforcement of control caps as transfers that take place after QS is issued are likely to be more transparent. Moving these transactions to the period after implementation of the IFQ will enable the development of mechanisms to collect information about relationships that may be relevant to implementation of control limits.

For all of these reasons, it makes much more sense to require divestiture after QS has been allocated.

Table 1 - How might control be tracked? Examples of ways the federal government tracks affiliation and other control relationships that do not necessarily involve ownership. These are drawn from fishery regulations at 50CFR679.2 and 50CFR680.2 for other rationalized fisheries, and MARAD regulations at 46CFR356.

<u>Indicators of Affiliation</u>	<u>Indicators of Control Relationships</u>
<p>Besides ownership interests, it may also be useful to understand how entities are affiliated with one another and how those relationships might lead to control. Business concerns, organizations, or individuals may be considered to be affiliates of one another if, directly or indirectly, either one controls or has the power to control the other – or a third party controls or has the power to control both, such as.</p> <ul style="list-style-type: none"> • Interlocking management or ownership; • Identity of interests among family members; • Shared facilities and equipment; • Common use of employees; • A QS holder or employee takes the leading role in establishing an entity that will hold QS. • If one QS holder has the right to preclude another holder of QS from engaging in other business activities; • If QS holders use the same law firm, accounting firm, share office space, phones, administrative support, etc. • If a QS holder provides start up capital for another QS holder on a less than arms length basis; • If a QS holder has the right to inspect the books and records of another QS holder; • If one QS holder uses the same insurance agent, law firm, accounting firm, or broker of any other QS holder with whom the former has entered into a mortgage, long-term or exclusive sales or marketing agreement, unsecured loan agreement, or management agreement; • A business entity organized after the decertification, suspension, or proposed decertification of another business entity that has the same management, ownership, or principal employees. 	<p>Control may be deemed to exist if an individual, corporation, or other business concern has any of the following relationships or forms of control over another individual, corporation, or other business concern:</p> <ul style="list-style-type: none"> • Control over a large portion of the voting stock; • Has the authority to direct the business of the entity which owns a fishing vessel or processor; • Has the authority to limit the actions of or to replace the chief executive officer, a majority of the board of directors, or any person serving in a management capacity of an entity that holds a large interest in a fishing vessel or processor; • Provisions that require consent of a minority shareholder to sell all or a substantial part of the assets, to enter into a different business, to contract with the major investors or to guarantee the obligations of majority investors; • Has the authority to direct the transfer, operation, or manning of a fishing vessel or processor; • Has the authority to control the management of and entity that owns a large interest in a fishing vessel or processor; • Absorbs all the costs and normal business risks associated with ownership and operation of a fishing vessel or processor; • Has the responsibility to procure insurance on a fishing vessel or processor, or assumes any liability in excess of insurance coverage; • Has the ability through any other means whatsoever to control the entity that controls a large interest in a fishing vessel or a processor.

Conclusion

In summary, the PFMC should authorize full initial allocation and require divestiture as the transition mechanism to bring QS holders into compliance with control caps. This approach is fair and equitable and is consistent with the MSFCMA and supports the goals and objectives of the West Coast Groundfish Fishery Management Plan and Amendment 20. Implementation of control limits upon initial allocation is not only inconsistent with these requirements; it is also fraught with practical problems.

The benefits of divestiture are:

- Individuals will be allowed to recoup their investment in the fishery and will not have catch shares expropriated.
- The likelihood of challenges to the rationalization program based on an inequitable application of QS caps will be reduced.

- Fishing communities will have time to organize, find financing, and purchase quota in the amounts necessary to preserve their access to the resource.

¹ **How is “grandfather clause” defined?** As described in the November 2008 Decision Document: “This clause allows a person, if initially allocated QS in amounts in excess of the cap, to maintain ownership of the QS. The grandfather clause will expire with a *change in ownership* [emphasis added] of the QS. If the owner divests some of the QS, the owner may not reacquire QS or QP until the owner is under the cap. Once under the cap, the grandfather clause expires and additional QS or QP may be acquired but not in excess of the control caps.” “Change in ownership is defined as follows: “For the purpose of the grandfather clause, ownership of a legal entity is defined to change with the addition of a new member to the corporation, partnership or other legal entity. Members may leave without causing the grandfather clause to expire for that entity.” Interestingly, the grandfather provision considered in November 2008 appears only to consider control through ownership as an ownership change that would trigger the end of grandfather protection. It is unclear whether grandfathering would apply to relationships that result in “control by other means.” This may seem to suggest that divestiture is a significantly clearer and effective approach to initial allocation as it could be applied to excess QS an individual owns or controls.

² Control limits in the April 2009 description of preferred alternatives.

Council Preferred Trawl Rationalization Programs

Table 2. Control and vessel limit options: Council preliminary preferred alternative for overfished species and halibut, preferred alternative for all other species (from March 2009).

Species Category	Preliminary Preferred (overfished species and halibut) and Preferred Alternative (all other species)	
	Vessel Limit *	Control Lim
Nonwhiting Groundfish Species	3.2%	2.7%
Lingcod - coastwide	3.2%	2.5%
Pacific Cod	20.0%	12.0%
Pacific whiting (shoreside)	15.0%	10.0%
Pacific whiting (mothership)	30.0%	20.0%
Sablefish		
N. of 36° (Monterey north)	4.5%	3.0%
S. of 36° (Conception area)	15.0%	10.0%
PACIFIC OCEAN PERCH*	5.0%	3.3%*
WIDOW ROCKFISH*	3.8%	2.5%*
CANARY ROCKFISH*	7.8%	5.2%*
Chillipepper Rockfish	15.0%	10.0%
BOCACCIO**	10.0%	7.5%**
Spitnose Rockfish	15.0%	10.0%
Yellowtail Rockfish	7.5%	5.0%
Shortspine Thornyhead		
N. of 34°27'	9.0%	6.0%
S. of 34°27'	9.0%	6.0%
Longspine Thornyhead		
N. of 34°27'	9.0%	6.0%
COWCOD**	10.0%	10%**
DARKBLOTCHED*	3.0%	2%*
YELLOWEYE**	3.9%	2.6%**
Minor Rockfish North		
Shelf Species	7.5%	5.0%
Slope Species	7.5%	5.0%
Minor Rockfish South		
Shelf Species	13.5%	9.0%
Slope Species	9.0%	6.0%
Dover sole	3.9%	2.6%
English Sole	7.5%	5.0%
Petrale Sole	4.5%	3.0%
Arrowtooth Flounder	20.0%	10.0%
Starry Flounder	20.0%	10.0%
Other Flatfish	15.0%	10.0%
Other Fish	7.5%	5.0%
Pacific Halibut***		
Min	1.5%	1.0%
Max	10.0%	8.0%

* These overfished species control limits are to be set at the maximum initial allocation to a permit. These percentages are based on preliminary estimates of those values.

** Because the maximum initial allocation for these overfished species were so high, the control limits were set at one half the maximum initial allocations. These percentages are based on preliminary estimates of those values.

*** Halibut IBQ

• Analyze a control limit range for quota share from 1-8%

• Analyze a vessel usage limit equal to control, up to 1.5 times control with a maximum of 10%

	<h2 style="margin: 0;">APPLICATION FOR TRANSFER OF QS/IFQ</h2>	U.S. Dept. of Commerce/NOAA National Marine Fisheries Service (NMFS) Restricted Access Management (RAM) P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free, (907) 586-7202 in Juneau (907) 586-7354 fax	
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**NOTE: A separate application must be submitted for each Quota Share (QS) or IFQ Transfer.
If you want to do a self sweep-up, please use the self sweep-up form.**

BLOCK A - TEC

Does the Transferee (Buyer) hold a Transfer Eligibility Certificate (TEC)? YES NO

BLOCK B - CHECKLIST

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 signed & notarized sales
- Documentation for Authorized Agent (if applicable)
- Transfer of IFQ (Category "A" Shares, Surviving Spouse Lease): Copy of permit

BLOCK C - TRANSFEROR (SELLER)

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 available):

BLOCK D - TRANSFEREE (BUYER)

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 available):

BLOCK E - QUESTIONS FOR TRANSFEREE (BUYER)

1. Do you request that this QS be included in a **sweep up**, if possible? YES NO
2. If YES, list the Group I.D. on the QS Holder Summary Report into which this new piece should be combined:

3. If this is Catcher Vessel CDQ Compensation QS and the vessel category has never been declared, check the one Catcher Vessel Category in which you would like to have your QS issued.

- Length Overall: 0' to 35' 36' to 60' greater than 60'
- Vessel Category: D C B

BLOCK F - IDENTIFICATION OF QS AND IFQ TO BE TRANSFERRED

Complete Block F if QS and IFQ are to be transferred together or if you want to transfer QS only.

- | | | |
|--|--|---|
| 1. <input type="checkbox"/> Halibut or <input type="checkbox"/> Sablefish | 2. IFQ Regulatory Area: | |
| 3. Vessel Category: | 4. Number of QS Units to be Transferred: | 5. Transferor (Seller) IFQ Permit Number: |

6. Numbered To and From (Serial Numbers are shown on the QS Holder Summary Report):

7. Do you want all remaining pounds for the current fishing year transferred? Yes No

If **no**, specify the number of pounds to be transferred: _____

- Pounds transferred includes a pro-rata share of any overage based on the QS units held or transferred and is non-negotiable.
- Pounds transferred includes a pro-rata share of any underage based on the QS held and transferred UNLESS OTHERWISE INSTRUCTED

BLOCK G - TRANSFER OF IFQ ONLY

Complete this Block if you want to Transfer IFQ Only (Applies only to Category "A" & Surviving Spouse IFQ)

- | | | |
|---|---------------------------------------|--------------------------|
| 1. <input type="checkbox"/> Halibut or <input type="checkbox"/> Sablefish | 2. IFQ Regulatory Area: | 3. Number of Units: |
| 4. Numbered To and From (Serial Numbers are shown on the QS Holder Summary Report): | | |
| 5. Actual Number of IFQ Pounds: | 6. Transferor (Seller) IFQ Permit No. | 7. Fishing Year: 20_____ |

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

BLOCK H - TO BE COMPLETED BY THE TRANSFEROR	
1.	Give the price per pound (including leases) \$ _____ / # IFQ (Price divided by IFQ pounds) Including fees Give the price per unit of QS \$ _____ / Unit of QS (Price divided by QS Units)
2.	What is the total amount being paid for the QS/IFQ in this transaction, including all fees? _____
3.	What are your reasons for transferring the QS/IFQ? (check all that apply) <input type="checkbox"/> Retirement from Fisheries <input type="checkbox"/> Shares Too Small to Fish <input type="checkbox"/> Consolidation of Shares <input type="checkbox"/> Pursue Non-Fishing Activities <input type="checkbox"/> Trading Shares <input type="checkbox"/> Other (explain) <input type="checkbox"/> Health Problems <input type="checkbox"/> Enter other Fisheries
4.	Is there a broker being used for this transaction? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes , how much is being paid in brokerage fees? \$ _____ or _____ % of total price.
BLOCK I - TO BE COMPLETED BY THE TRANSFEREE	
1.	Will the QS/IFQ being purchased have a lien attached? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of lien holder _____
2.	What is the primary source of financing for this transfer (<i>check one</i>)? <input type="checkbox"/> Received as a Gift <input type="checkbox"/> Personal Resources (cash) <input type="checkbox"/> AK Com. Fish & Ag. Bank <input type="checkbox"/> NMFS Loan Program <input type="checkbox"/> Private Bank/Credit Union <input type="checkbox"/> Transferor/Seller <input type="checkbox"/> Processor/Fishing Company <input type="checkbox"/> Alaska Dept. Of Commerce <input type="checkbox"/> Other (explain): _____
3.	How was the QS/IFQ located (<i>check all that apply</i>)? <input type="checkbox"/> Relative <input type="checkbox"/> Advertisement / Public Notice <input type="checkbox"/> Broker <input type="checkbox"/> Personal Friend <input type="checkbox"/> Other (explain): _____
4.	What is the Buyer's relationship to the QS/IFQ Holder (<i>check all that apply</i>)? <input type="checkbox"/> Unrelated <input type="checkbox"/> Family Member <input type="checkbox"/> Business Partner <input type="checkbox"/> Friend <input type="checkbox"/> Other (explain): _____
5.	Is there an agreement to return the QS or IFQ to the Transferor (seller), or any other person, or a condition placed on resale? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes , please explain: _____

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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 J - 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 this is completed by an agent, attach authorization:

4. Notary Public Signature:

ATTEST

5. Affix Notary Stamp or Seal Here:

6. Commission Expires:

BLOCK K - 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 this is completed by an agent, attach authorization:

4. Notary Public Signature:

ATTEST

5. Affix Notary Stamp or Seal Here:

5. Commission Expires:

<p>Instructions APPLICATION FOR TRANSFER OF QS/IFQ</p>
--

Submit a separate application for each Quota Share (QS) or Individual Fishing Quota (IFQ) Transfer. If you want to apply for a “self sweep-up,” please use the *Self Sweep-Up Form*.

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

When completed, mail the original application form to:

**NMFS Alaska Region
 Restricted Access Management (RAM)
 P.O. Box 21668
 Juneau, AK 99802-1668**

or deliver to:

**Room 713, Federal Building
 709 West 9th Street**

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)**.

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 -- TEC

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.

BLOCK B -- CHECKLIST

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. If you have lost your original QS certificate, you will need to complete an Application for Replacement of Certificates, Cards, or Permits.

BLOCK C -- TRANSFEROR (SELLER)

1. Name: Full name as it appears on QS Holder Summary Report and/or TEC.
2. NMFS Person ID: As found on QS Holder Summary Report or TEC.
3. Date of Birth.
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 No., Business Fax No., and Business E-mail address (if available): Include the area codes.

BLOCK D -- TRANSFEREE (BUYER)

1. Name: Full name as it appears on QS Holder Summary Report and/or TEC.
2. NMFS Person ID: As found on QS Holder Summary Report or TEC.
3. Date of Birth.

Appendix A-1

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 Number., Fax Number., and e-mail address (if available): Include the area codes.

BLOCK E - QUESTIONS FOR TRANSFEREE (BUYER)

1. Indicate if you wish to combine (“sweep up”) the transferred block together with a block you already hold. Blocked QS’s may be swept up into one block if the total amount of QS being combined is less than or equal to the following amounts of QS units per area.

Halibut		Sablefish	
<u>Area</u>	<u>Units</u>	<u>Area</u>	<u>Units</u>
2C	33,320	SE	33,270
3A	46,520	WY	43,390
3B	44,193	CG	46,055
4A	22,947	WG	48,410
4B	15,087	AI	99,210
4C	30,930	BS	91,275
4D	26,082		

2. Group I.D number to be swept up.
3. If this is a transfer of Catcher Vessel CDQ compensation QS, there is a **one time** opportunity at the time of the first transfer to **permanently** designate the catcher vessel category of the QS being transferred.

BLOCK F - IDENTIFICATION OF QS AND IFQ TO BE TRANSFERRED

This block should only be completed if you are transferring QS and the IFQ resulting from these shares. Persons wishing to transfer IFQ only (Category “A” shares, lease), should fill out Block G.

1. Species: halibut or sablefish.
2. IFQ Regulatory Area.
3. Vessel Category.
4. Number of units to be transferred.
5. Transferor (seller) IFQ permit number.
6. Starting and ending serial number of shares to be transferred [For example, **H-2C-C-B-123,456 THROUGH H-2C-C-B-789,493**]
7. A **specific number of pounds** must be indicated for each transfer. A pro-rata amount of IFQ (**overage pounds**) will be debited from any IFQ transferred based on the QS unit held or transferred. The current QS holder may retain **underage pounds**. However, unless otherwise specified, the underage associated with the QS will be transferred. Please indicate your specific intention.

BLOCK G - TRANSFER OF IFQ ONLY

This box should be completed if IFQ pounds only are being transferred (leased) and the QS will remain with the current holder of those shares. Only Category “A” or those shares received as a Surviving Spouse under the provisions in 50 CFR 679 may be transferred in this manner.

1. Species: halibut or sablefish.
2. IFQ Regulatory Area.

Appendix A-1

3. Number of units to be transferred.
4. Starting serial number of shares to be transferred to the ending serial number of shares to be transferred.
5. Specific number of pounds being transferred.
6. Transferor's (seller's) IFQ permit number.
7. The fishing year is the current year or year in which IFQ should be transferred. A transfer of IFQ only cannot be completed until the IFQ has been awarded for that year.

BLOCK H - REQUIRED SUPPLEMENTAL INFORMATION (Completed by Transferor)

1. The price per pound of IFQ must be entered, including IFQs **only** "leased". (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.
3. Please check all boxes that apply to this transaction.
4. Are you paying a third party to assist with this transaction? If **No**, go to question #2. If **Yes**, put the total price paid to the broker or calculate how much was paid to the third party as a percentage of the total sale price. (The percentage can be derived by using this formula: divide the brokerage fee by the total price paid for the QS/IFQ, then multiply the result by 100.)

BLOCK I - REQUIRED SUPPLEMENTAL INFORMATION (Completed by Transferee)

1. Indicate if the QS will be used as collateral. List the name of entity or person(s) who will hold the Security interest lien. This name will appear on the QS Certificate.
- 2-4. Please check any and all boxes that apply to this transaction.
5. Regulations governing the IFQ program do not permit transfer of QS subject to any conditions of repossession or resale to the transferor except by court order, operation of law, or security agreement.

BLOCKS J & K

CERTIFICATION OF TRANSFEROR, TRANSFEE, AND NOTARY PUBLIC

- Sign and print your name and date the application in the presence of a Notary Public. Application forms submitted to RAM must bear the **original signatures** of the parties — **RAM will not process faxed applications**.
- Representatives signing for a Transferor or Transferee must submit proof of authorization to submit this application on their behalf.
- A Notary Public must Attest and affix Notary Stamp. The Notary Public cannot be the person(s) submitting this application.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting for this collection of information is estimated to average 2.0 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 as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

BLOCK C – CERTIFICATION	
Under penalty of perjury, I declare that I have examined this form, and to the best of my knowledge and belief, the information I have presented here is true, correct, and complete.	
1. Signature	2. Date
3. Printed Name	4. Title
5. Signature of Notary Public	6. Affix Notary Stamp or Seal Below
7. Commission Expires:	

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching 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.

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 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions

QS HOLDER: IDENTIFICATION OF OWNERSHIP INTEREST

This form must be submitted by corporations, partnerships, associations, and other non-individual entities that hold quota share (QS) under the Pacific halibut and sablefish Individual Fishing Quota (IFQ) Program (50 CFR part 679).

Please type or print legibly in ink; you may photocopy and attach additional sheets as necessary. Please sign in ink, have your signature notarized, retain a copy for your records.

When complete, mail the original form to:

**NMFS Alaska Region,
Restricted Access Management (RAM),
P.O. Box 21668,
Juneau, AK 99802-1668.**

or deliver to:

**Room 713, Federal Building
709 West 9th Street**

For information, contact RAM at 800-304-4846 or 907-586-7202.

GENERAL INFORMATION

The information requested herein is needed by RAM to determine compliance with two IFQ program requirements, including:

- 1) **Limitations On Use of QS and IFQ.** This information is needed to determine if persons who hold QS have exceeded their allowable use limits under the "individually and collectively" language set out in the IFQ regulations at 50 CFR 679.42(e) and (f); and,
- 2) **Changes in corporations or partnerships.** This information is also needed to determine if a Corporation or Partnership has changed. Under Sec. 679.42(j)(1) - (4), upon a "change" (i.e., the addition of a new member) to a corporation or partnership that holds catcher vessel QS, the entity may no longer hire a master to fish the IFQ resulting from the QS it holds; further, such an entity must notify NMFS of the change within 15 days of its effective date and must then transfer its QS to a qualified individual.

BLOCK A - IDENTIFICATION OF QS HOLDER

1. Provide name of QS holder.
2. Indicate whether the QS Holder is a publicly held corporation.
If YES, sign the certification in Block C and return the form to RAM.
3. Indicate whether the QS Holder is a corporation, association, partnership, or other non-individual entity.
If YES, indicate whether the entity is still active.
If YES, go to Block "B".
If NO, sign the certification in Block C and return the form to RAM.
4. Indicate whether the QS Holder is an estate that has been probated. You must answer YES if the non-individual QS Holder is an estate and all estate matters with regard to the disposition of the assets, including QS, have been finalized. Provide the date the estate was settled.

BLOCK B - IDENTIFICATION OF MEMBERS

1. If ownership consists of separate or additional shareholders, partners, joint venturers, successors-in-interest, associations, corporations, partnerships, or other non-individual entities, list the individual owners of those entities and the percentage of interest those individuals hold in their respective entities.
2. Enter the percentage of ownership interest that each constituent member holds; for example, if there are three equal owners, enter "33-1/3" for each. The total interest of all members should equal 100 percent.
3. Indicate whether the ownership percentages represent the addition of any new owners since QS initially was issued. If any of the owners listed have been added since QS were issued, you must answer "yes".

BLOCK C - CERTIFICATION

- 1-3. Sign and date the application in the presence of Notary Public, and print your name.
4. Authorized representatives must submit proof of authorization from QS owner and state title.
- 5-7. Signature, commission expiration date, and stamp of notary public. Not to be completed by the person submitting this application.