

IFQ regulatory areas 4B, 4C, or 4D to a CDQ group.

(4) A CDQ group that receives halibut IFQ by transfer may not transfer that halibut IFQ to any other person.

(p) *Temporary IFQ transfer for 2020.* During the 2020 IFQ fishing year only, the Regional Administrator may approve a temporary transfer for IFQ derived from categories B, C, or D QS.

(1) A QS holder may apply for a temporary transfer by submitting an Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota to the Alaska Region, NMFS. NMFS will transfer, upon approval of the application, the applicable IFQ from the applicant (transferor) to the recipient (transferee). The application is available at <http://alaskafisheries.noaa.gov> or by calling 1-800-304-4846.

(2) [Reserved]

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.41, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

EFFECTIVE DATE NOTE: At 85 FR 38104, June 25, 2020, § 679.41 was amended by revising paragraph (h)(2) and adding paragraph (p), effective June 25, 2020, through Dec. 22, 2020.

#### § 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 for the following:

(i) All or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(ii) All or part of the halibut CDQ specified for regulatory area 4D may be harvested in either Area 4D or Area 4E.

(iii) If a CDQ group is authorized to receive a transfer of halibut IFQ assigned to vessel categories B, C, or D in IFQ regulatory area 4D as specified in § 679.41(o) of this part, all or part of the halibut IFQ specified for regulatory area 4D that is held by or transferred to a CDQ group may be harvested in either Area 4D or Area 4E.

(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 § 679.41(i)(1) of this part (CDQ compensation QS exemption);

(ii) IFQ derived from QS held by a CQE may be used to harvest IFQ species from a vessel of any length, with the exception of IFQ derived from QS in IFQ regulatory areas 3A and 4B that are assigned to vessel category D.

(A) Halibut IFQ derived from QS assigned to vessel category D in Area 3A that is held by a CQE located in Area 3A may be used to harvest IFQ halibut on a vessel less than or equal to 60 ft (18.3 m) LOA from August 15 to the end of the IFQ fishing season.

(B) [Reserved]

(iii) In IFQ regulatory areas 3B, 4B, and 4C, category D QS and associated IFQ authorizes an IFQ permit holder to harvest IFQ halibut on a vessel less than or equal to 60 ft (18.3 m) LOA.

(iv) Halibut IFQ assigned to vessel category B, C, or D held by a CDQ group may not be used on a vessel over 51 feet LOA, irrespective of the vessel category assigned to the IFQ.

(v) In IFQ regulatory areas 2C and 3A, RFQ held by an RQE may be harvested aboard charter vessels as defined at 50 CFR 300.61 of any size, regardless of the QS category from which that RFQ originated.

(b) *Gear—(1) IFQ Fisheries.* Authorized fishing gear to harvest IFQ halibut and IFQ sablefish is defined in § 679.2.

(i) *IFQ halibut.* IFQ halibut must not be harvested with trawl gear in any IFQ regulatory area.

(ii) *IFQ sablefish.* IFQ sablefish must not be harvested with trawl gear in any IFQ regulatory area, or with pot-and-line gear in the GOA. A vessel operator using longline pot gear in the GOA to fish for IFQ sablefish must comply with the GOA sablefish longline pot gear requirements in paragraph (1) of this section.

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

(c) *Permit holder aboard requirement.* Any individual who harvests halibut or

## Fishery Conservation and Management

## § 679.42

sablefish with fixed gear must have a valid IFQ permit, and if a hired master is conducting the harvest, a valid IFQ hired master permit, and must be aboard the vessel at all times during the fishing trip and be present during the landing.

(d) *Emergency waivers and medical transfers.* 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:

(1) *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 or paragraph (c)(1) of this section 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.

(2) *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.

(i) *General.* A medical transfer will be approved if the QS holder demonstrates that:

(A) 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

(B) 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.

(ii) *Eligibility.* To be eligible to receive a medical transfer, a QS holder must:

(A) Possess one or more catcher vessel IFQ permits; and

(B) Not qualify for a hired master exception under paragraph (i)(1) of this section.

(iii) *Application.* A QS holder may apply for a medical transfer by submit-

ting 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 <https://alaskafisheries.noaa.gov/region/alaska> or by calling 1-800-304-4846. Completed applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668. A complete application must include:

(A) The applicant's (transferor's) identity including his or her full name, NMFS person ID, date of birth, permanent business mailing address, business telephone and fax numbers, and email address (if any). A temporary mailing address may be provided, if appropriate;

(B) The recipient's (transferee's) identity including his or her full name, NMFS person ID, date of birth, permanent business mailing address, business telephone and fax numbers, and email address (if any). A temporary mailing address may be provided, if appropriate;

(C) The identification characteristics of the IFQ including whether the transfer is for halibut or sablefish IFQ, IFQ regulatory area, actual number of IFQ pounds, transferor (seller) IFQ permit number, and fishing year;

(D) The price per pound (including leases), or other method of compensation, and total amount paid for the IFQ in the requested transaction, including all fees;

(E) The primary source of financing for the transfer, how the IFQ was located, and the transferee's (buyer's) relationship to the transferor (seller);

(F) A written declaration from a health care provider as defined in § 679.2. The declaration must include:

(1) The identity of the health care provider including his or her full name, business telephone, and permanent business mailing address (number and street, city and state, zip code);

(2) A statement of the condition affecting the applicant or the applicant's immediate family member, that the applicant is unable to participate; and

§ 679.42

50 CFR Ch. VI (10–1–20 Edition)

(3) The dated signature of the health care provider who conducted the medical examination; and

(G) The signatures and printed names of the transferor and transferee, and date.

(iv) *Restrictions.* (A) A medical transfer shall be valid only during the calendar year for which the permit is issued;

(B) A medical transfer will be issued only for the IFQ derived from the QS held by the applicant; and

(C) NMFS will not approve a medical transfer if the applicant has received a medical transfer in any 3 of the previous 7 calendar years for any medical condition.

(v) *Medical transfer evaluations and appeals*—(A) *Initial evaluation.* The Regional Administrator will evaluate an application for a medical transfer submitted in accordance with paragraphs (d)(2)(iii) and (d)(2)(iv) of this section. An applicant who fails to submit the information specified in the application for a medical transfer will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(B) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to the applicant if the Regional Administrator determines that the application provided by the applicant is deficient or if the applicant fails to submit the specified information or a revised application. The IAD will indicate the deficiencies in the application, including any deficiencies with the information on the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

(e) *Sablefish QS Use.* (1) No person other than a CQE representing the community of Adak, AK, 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, ex-

cept 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 area of the Bering Sea subarea.

(4) No CQE may hold more than:

(i) 3,229,721 units of sablefish QS on behalf of any single eligible community in the GOA; or

(ii) 4,789,874 units of sablefish QS on behalf of any single eligible community in the Aleutian Islands subarea.

(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:

(i) 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.

(ii) 15 percent of the total QS specified in § 679.41(e)(2)(v) 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 and representing an eligible community:

(i) In the GOA 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; and

(ii) In the Aleutian Islands subarea may lease the IFQ resulting from that QS to any person who has received an approved Application for Eligibility as described in paragraph (d) of this section prior to March 17, 2019 and only to an eligible community resident of Adak, AK, after March 17, 2019.

(9) A CQE representing an eligible community in the Aleutian Islands subarea may receive by transfer or use sablefish QS only in the Aleutian Islands subarea.

## Fishery Conservation and Management

## § 679.42

(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 other than a CQE representing the community of Adak, AK, individually or collectively, or an RQE, may use more than:

(i) *IFQ regulatory Area 2C.* 599,799 units of halibut QS, including halibut QS issued as IFQ and transferred to GAF, as defined in §300.61 of this title.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS, including halibut QS issued as IFQ and transferred to GAF, as defined in §300.61 of this title.

(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.

(iii) *IFQ regulatory area 4B.* 1,392,716 units of halibut QS.

(3) No CQE may hold halibut QS in the IFQ regulatory areas 4A, 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:

(i) 21 percent of the total QS in each regulatory area specified in §679.41(e)(3)(i) through (e)(3)(iii) of this part for halibut.

(ii) 15 percent of the total QS specified in §679.41(e)(3)(v) of this part for halibut.

(6) No individual that receives IFQ derived from halibut QS held by a CQE, including GAF as defined in §300.61 of this title, may hold, individually or collectively, more than 50,000 pounds (22.7 mt) of IFQ halibut, including IFQ halibut received as GAF, derived from any halibut QS source.

(7) A CQE receiving category B, C, or D halibut QS through transfer:

(i) In an IFQ regulatory area specified in §679.41(e)(3)(i) through (e)(3)(iii) of this part may lease the IFQ result-

ing from that QS only to an eligible community resident of the eligible community represented by the CQE.

(ii) In IFQ regulatory area 4B may lease the IFQ resulting from that QS to any person who has received an approved Application for Eligibility as described in paragraph (d) of this section prior to March 17, 2019 and only to an eligible community resident of Adak, AK, after March 17, 2019.

(8)(i) *Annual transfer limits.* The RQE may not receive by transfer more than 594,774 units of Area 2C halibut QS and more than 2,218,716 units of Area 3A halibut QS in a year.

(ii) *Cumulative use limits.* The RQE may not hold more than 5,947,740 units of Area 2C halibut QS and more than 22,187,161 units of Area 3A halibut QS.

(iii) *Vessel category restrictions.* (A) The RQE may not hold more than 889,548 units of halibut QS in IFQ regulatory area 2C that is assigned to vessel category D.

(B) The RQE may not hold halibut QS in IFQ regulatory area 3A that is assigned to vessel category D.

(C) The RQE may not hold more than 265,524 units of halibut QS that is assigned to vessel category B in IFQ regulatory area 2C.

(g) *Limitations on QS blocks—*(1) *Number of blocks per species.* No person, individually or collectively, may hold more than two blocks of sablefish or three blocks of halibut in any IFQ regulatory area, except:

(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.

(iii) The RQE may not receive:

(A) Transfers of halibut QS blocks of less than or equal to 24,250 quota share units in IFQ regulatory area 2C.

(B) Transfers of halibut QS blocks of less than or equal to 35,620 quota share units in IFQ regulatory area 3A.

(2) *Action by the Regional Administrator in Areas 3B and 4A.* In Areas 3B

and 4A, the Regional Administrator shall:

(i) Identify any halibut blocks that result in an allocation of more than 20,000 lb (9.1 mt) of halibut IFQ, based on the 2004 TAC for fixed gear halibut in those areas and the QS pools for those areas as of January 31, 2004; and

(ii) Divide those halibut blocks into one block of 20,000 lb (9.1 mt) and the remainder unblocked, based on the 2004 TAC for fixed gear halibut in those areas and the QS pools for those areas as of January 31, 2004.

(3) *Transfer of QS blocks.* Notwithstanding paragraph (g)(1)(i) of this section, a person who holds more than one block of halibut QS and unblocked halibut QS as a result of the Regional Administrator's action under paragraph (g)(2) of this section may transfer unblocked QS until such time as that person transfers a halibut QS block to another person.

(4) 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 IFQ halibut 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 derived from QS held by a CQE, and no vessel used to harvest IFQ halibut derived from QS held by a CQE may be used to harvest more IFQ halibut than the vessel use caps specified in paragraphs (h)(1) introductory text and (h)(1)(i) of this section.

(iii) Notwithstanding the vessel use caps specified in paragraphs (h)(1) introductory text and (h)(1)(ii) of this section, vessel use caps do not apply to vessels harvesting IFQ halibut in IFQ regulatory areas 4B, 4C, and 4D during the 2020 IFQ fishing year.

(2) *Sablefish.* No vessel may be used, during any fishing year, to harvest more IFQ sablefish 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 derived from QS held by a CQE, and no vessel used to harvest IFQ sablefish derived from QS and held by a CQE may be used to harvest more IFQ sablefish than the vessel use caps specified in paragraphs (h)(2) introductory text and (h)(2)(i) of this section.

(3) *Excess.* An IFQ permit holder who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all that IFQ with a single vessel. However, two or more IFQ permit holders may not catch and retain their IFQs with one vessel in excess of these limitations.

(4) *Liability.* Owners and operators of vessels exceeding these limitations are jointly and severally liable with IFQ permit holders and IFQ hired master permit holders whose harvesting causes the vessel to exceed these limitations.

(i) *Use of IFQ resulting from QS assigned to vessel category B, C, or D by individuals.* In addition to the requirements of paragraph (c) of this section, IFQ permits issued for IFQ resulting from QS assigned to vessel category 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 category B, C, or D does 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:

(i) For a documented vessel, during the 12-month period previous to the application by the individual for a hired master permit, continuously owned a minimum 20-percent interest in the vessel as shown by the U.S. Abstract of

## Fishery Conservation and Management

## § 679.42

Title issued by the U.S. Coast Guard that lists the individual as an owner and, if necessary to show 20-percent ownership for 12 months, additional written documentation; or

(ii) For an undocumented vessel, during the 12-month period previous to the application by the individual for a hired master permit, continuously owned a minimum 20-percent interest in the vessel as shown by a State of Alaska license or registration that lists the individual as an owner and, if necessary to show the 20-percent ownership for 12 months, additional written documentation; and

(iii) Is represented on the vessel by a hired master employed by that individual and permitted in accordance with § 679.4(d)(2).

(iv) *NMFS review of application for exemption*—(A) *Initial evaluation*. The Regional Administrator will evaluate an application for a hired master submitted in accordance with paragraphs (i)(1), (i)(6), and (i)(7) of this section. An applicant who fails to submit the information specified in the application for a hired master will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(B) *Initial administrative determinations (IAD)*. The Regional Administrator will prepare and send an IAD to an individual submitting an application for a hired master submitted in accordance with paragraphs (i)(1), (i)(6), and (i)(7) of this section if the Regional Administrator determines that the information required to be submitted to NMFS is deficient or if the applicant fails to submit the required information. The IAD will indicate the deficiencies with the information submitted. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

(v) Upon request by the Regional Administrator or an authorized officer, a person must submit additional written documentation necessary to establish the required minimum 20-percent interest in the vessel during the 12-month period previous to the application by the individual for a hired master permit.

(2) Paragraph (i)(1) of this section does not apply to any individual who

received an initial allocation of QS assigned to category 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.

(3) Paragraph (i)(1) of this section does not apply to individuals who received an initial allocation of QS assigned to vessel category 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.

(4) The exemption provided in paragraph (i)(1) of this section may be exercised by an individual on a vessel owned by a corporation, partnership, association or other non-individual entity in which the individual is a shareholder, partner, or member, provided that during the 12-month period previous to the application by the individual for a hired master permit, the individual continuously maintained a minimum 20-percent ownership interest in the vessel owned by the corporation, partnership, association or other non-individual entity. For purposes of this paragraph, an individual's interest in a vessel is determined by the percentage ownership by the individual of a corporation, partnership, association or other non-individual entity that has an ownership interest in the vessel multiplied by the percentage of ownership of the vessel by the corporation, partnership, or other non-individual entity.

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

(6) In the event of the total loss or irreparable damage to a vessel owned by an individual who qualifies for the exemption in paragraph (i)(1) of this section, the individual may remain exempt under paragraph (i)(1) of this section until December 31 of the year following the year in which the vessel was

lost or damaged, provided that the individual meets the following requirements:

(i) The loss or irreparable damage to the vessel was caused by an act of God, an act of war, a collision, an act or omission of a party other than the individual or agent of the individual, or any other event not caused by the willful misconduct of the individual or agent of the individual.

(ii) The lost or irreparably damaged vessel is a commercial fishing vessel that was previously used to harvest halibut IFQ or sablefish IFQ of the individual who qualifies for the exemption in paragraph (i)(1) of this section;

(iii) As part of the application for exemption, the individual submits to NMFS a copy of the USCG Form 2692 submitted to the USCG as specified in 46 CFR 4.05; and

(iv) The individual is applying to use a hired master on a vessel in which the individual has a minimum 20-percent ownership interest as of the date of the application by the individual for a hired master permit.

(7) In the event of temporary disablement of a vessel owned by an individual who qualifies for the exemption in paragraph (i)(1) of this section, the individual may remain exempt under paragraph (i)(1) of this section until December 31 of the year following the year in which the vessel was disabled, provided that the individual meets the following requirements:

(i) The temporary disablement of the vessel results from repairs required by an accident that materially and adversely affected the vessel's seaworthiness or fitness for service, such as from sinking, grounding, or fire;

(ii) The repairs from the accident require at least 60 days to be completed;

(iii) The disabled vessel is a commercial fishing vessel that was previously used to harvest halibut IFQ or sablefish IFQ of the individual who qualifies for the exemption in paragraph (i)(1) of this section;

(iv) The individual submits to NMFS a copy of the USCG Form 2692 submitted to the USCG as specified in 46 CFR 4.05; and

(v) The individual is applying to use a hired master on a vessel in which the individual has a minimum 20-percent

ownership interest as of the date of the application by the individual for a hired master permit.

(8) Paragraphs (i)(1) and (i)(4) of this section do not apply to any QS assigned to vessel category B, C, or D received by transfer by any person described in paragraph (i)(1) after February 12, 2010, except a hired master may be used to harvest IFQ derived from QS blocks that were consolidated under § 679.41(e)(2) or (e)(3) after February 12, 2010, and before December 1, 2014.

(j) *Use of IFQ resulting from QS assigned to vessel category B, C, or D by corporations, partnerships, or other non-individual entities.* (1) Except as provided in paragraph (j)(7) of this section, a corporation, partnership, association, or other non-individual entity that received an initial allocation of QS assigned to category B, C, or D may fish the IFQ resulting from that QS and any additional QS acquired within the limitations of this section from a vessel if that corporation, partnership, association, or other non-individual entity:

(i) For a documented vessel, owns a minimum 20-percent interest in the vessel as shown by the U.S. Abstract of Title issued by the U.S. Coast Guard that lists the corporation, partnership, association, or other non-individual entity as an owner and, if necessary to prove the required percentage ownership, other written documentation;

(ii) For an undocumented vessel, owns a minimum 20-percent interest in the vessel as shown by a State of Alaska vessel license or registration that lists the corporation, partnership, association, or other non-individual entity as an owner and, if necessary to show the required percentage ownership interest, other written documentation; and

(iii) Is represented on the vessel by a hired master employed by that individual and permitted in accordance with § 679.4(d)(2).

(2) The provision of paragraph (j)(1) of this section is not transferable and does not apply to QS assigned to vessel category 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, partnership, association, or other

non-individual entity. Such transfers of additional QS within these areas must be to an individual pursuant to §679.41(c) and be used pursuant to paragraphs (c) and (i) of this section.

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

(4) 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, partnership, association, or other non-individual entity; or

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

(5) The Regional Administrator must be notified of a change in the corporation, partnership, association, or other non-individual 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, partnership, association, or other non-individual entity or, for estates, the date of the termination of a legal heir to the estate, or the date of the order for distribution of the estate.

(6) QS assigned to vessel category B, C, or D and IFQ resulting from that QS held in the name of a corporation, partnership, association, or other non-individual entity that changes, as defined in this paragraph (j), must be transferred to an individual, as prescribed in §679.41, before it may be used at any time after the effective date of the change.

(7) A corporation, partnership, association, or other non-individual entity that received an initial allocation of QS assigned to category B, C, or D and that, prior to April 17, 1997, employed a

master to fish any of the IFQ issued to that corporation, partnership, association, or other non-individual entity may continue to employ a master to fish its IFQ on a vessel owned by the corporation, partnership, association, or other non-individual entity provided that the corporation, partnership, association, or other non-individual entity continues to own the vessel at no lesser percentage of ownership interest than that held on April 17, 1997, and provided that corporation, partnership, association, or other non-individual entity did not acquire additional QS through transfer after September 23, 1997.

(8) A corporation, partnership, or other non-individual entity, except for a publicly held corporation, that receives an allocation of QS must provide annual updates to the Regional Administrator identifying all current shareholders, partners, or members to the individual person level and affirming the entity's continuing existence as a corporation or partnership, or other non-individual entity.

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

(10) Paragraphs (j)(1) and (j)(9) of this section do not apply to any QS assigned to vessel category B, C, or D received by transfer after February 12, 2010, by an entity described in paragraph (j)(1) except a hired master may be used to harvest IFQ derived from QS that were consolidated under



§ 679.42

50 CFR Ch. VI (10–1–20 Edition)

§ 679.41(e)(2) or (e)(3) after February 12, 2010, and before December 1, 2014.

(k) *Sablefish vessel clearance requirements*—(1) *Bering Sea or Aleutian Islands*. Any vessel operator who fishes for IFQ sablefish in the Bering Sea or Aleutian Islands must possess a transmitting VMS transmitter while fishing for IFQ sablefish. The operator of the vessel must comply with VMS requirements at § 679.28(f)(3) through (5).

(2) *Gulf of Alaska*. A vessel operator using longline pot gear to fish for IFQ sablefish in the Gulf of Alaska must possess a transmitting VMS transmitter while fishing for sablefish. The operator of the vessel must comply with VMS requirements at § 679.28(f)(3) through (5).

(1) *GOA sablefish longline pot gear requirements*. Additional regulations that implement specific requirements for any vessel operator who fishes for IFQ sablefish in the GOA using longline pot gear are set out under: § 300.61 Definitions, § 679.2 Definitions, § 679.5 Record-keeping and reporting (R&R), § 679.7 Prohibitions, § 679.20 General limitations, § 679.23 Seasons, § 679.24 Gear limitations, and § 679.51 Observer requirements for vessels and plants.

(1) *Applicability*. Any vessel operator who fishes for IFQ sablefish with longline pot gear in the GOA must comply with the requirements of this paragraph (1). The IFQ regulatory areas in the GOA include the Southeast Outside District of the GOA, the West Yakutat District of the GOA, the Central GOA regulatory area, and the Western GOA regulatory area.

(2) *General*. To use longline pot gear to fish for IFQ sablefish in the GOA, a vessel operator must:

(i) Request and be issued pot tags from NMFS as specified in paragraph (1)(3);

(ii) Use pot tags as specified in paragraph (1)(4);

(iii) Deploy and retrieve longline pot gear as specified in paragraph (1)(5);

(iv) Retain IFQ halibut caught in longline pot gear if sufficient halibut IFQ is held by persons on board the vessel as specified in paragraph (1)(6); and

(v) Comply with other requirements as specified in paragraph (1)(7).

(3) *Pot tags*. (i) *Request for pot tags*. (A) The owner of a vessel that uses longline pot gear to fish for IFQ sablefish in the GOA must use pot tags issued by NMFS. A vessel owner may only receive pot tags from NMFS for each vessel that uses longline pot gear to fish for IFQ sablefish in the GOA by submitting a complete IFQ Sablefish Longline Pot Gear Vessel Registration and Request for Pot Gear Tags form according to form instructions. The form is located on the NMFS Alaska Region Web site at [alaskafisheries.noaa.gov](http://alaskafisheries.noaa.gov).

(B) The vessel owner must specify the number of requested pot tags for each vessel for each IFQ regulatory area in the GOA (up to the maximum number of pots specified in paragraph (1)(5)(ii) of this section) on the IFQ Sablefish Longline Pot Gear Vessel Registration and Request for Pot Gear Tags form.

(ii) *Issuance of pot tags*. (A) Upon submission of a completed IFQ Sablefish Longline Pot Gear Vessel Registration and Request for Pot Gear Tags form, NMFS will assign each pot tag to the vessel specified on the form.

(B) Each pot tag will be a unique color that is specific to the IFQ regulatory area in the GOA in which it must be deployed and imprinted with a unique serial number.

(C) NMFS will send the pot tags to the vessel owner at the address provided on the IFQ Sablefish Longline Pot Gear Vessel Registration and Request for Pot Gear Tags form.

(iii) *Request for pot tag replacement*. (A) The vessel owner may submit a request to NMFS to replace pot tags that are lost, stolen, or mutilated.

(B) The vessel owner to whom the lost, stolen, or mutilated pot tag was issued must submit a complete IFQ Sablefish Request for Replacement of Longline Pot Gear Tags form according to form instructions. The form is located on the NMFS Alaska Region Web site at [alaskafisheries.noaa.gov](http://alaskafisheries.noaa.gov).

(C) A complete form must be signed by the vessel owner and is a sworn affidavit to NMFS indicating the reason for the request for a replacement pot tag or pot tags and the number of replacement pot tags requested by IFQ regulatory area.

(D) NMFS will review a request to replace a pot tag or tags and will issue

## Fishery Conservation and Management

## § 679.42

the appropriate number of replacement pot tags. The total number of pot tags issued to a vessel owner for an IFQ regulatory area in the GOA cannot exceed the maximum number of pots authorized for use by a vessel in that IFQ regulatory area specified in paragraph (1)(5)(ii) of this section. The total number of pot tags issued to a vessel owner for an IFQ regulatory area in the GOA equals the sum of the number of pot tags issued for that IFQ regulatory area that have not been replaced plus the number of replacement pot tags issued for that IFQ regulatory area.

(iv) *Annual vessel registration and pot tag assignment.* (A) The owner of a vessel that uses longline pot gear to fish for IFQ sablefish in the GOA must annually register the vessel with NMFS and specify the pot tags that NMFS will assign to the vessel. Pot tags must be assigned to only one vessel each year.

(B) To register a vessel and assign pot tags, the vessel owner must annually submit a complete IFQ Sablefish Longline Pot Gear Vessel Registration and Request for Pot Gear Tags form to NMFS.

(1) The vessel owner must specify the vessel to be registered on the IFQ Sablefish Longline Pot Gear Vessel Registration and Request for Pot Gear Tags form. The specified vessel must have a valid ADF&G vessel registration number.

(2) The vessel owner must specify on the IFQ Sablefish Longline Pot Gear Vessel Registration and Request for Pot Gear Tags form either that the vessel owner is requesting that NMFS assign pot tags to a vessel to which the pot tags were previously assigned or that the vessel owner is requesting new pot tags from NMFS.

(4) *Using pot tags.* (i) Each pot used to fish for IFQ sablefish in the GOA must be identified with a valid pot tag. A valid pot tag is:

(A) Issued by NMFS according to paragraph (1)(3) of this section;

(B) The color specific to the regulatory area in which it will be used; and

(C) Inscribed with a legible unique serial number.

(ii) A valid pot tag must be attached to each pot on board the vessel to

which the pot tags are assigned before the vessel departs port to fish.

(iii) A valid pot tag must be attached to a pot bridge or cross member such that the entire pot tag is visible and not obstructed.

(5) *Restrictions on GOA longline pot gear deployment and retrieval—(i) General.*

(A) A vessel operator must mark longline pot gear used to fish IFQ sablefish in the GOA as specified in § 679.24(a).

(B) A vessel operator must deploy and retrieve longline pot gear to fish IFQ sablefish in the GOA only during the sablefish fishing period specified in § 679.23(g)(1).

(C) The gear retrieval and removal requirements in paragraphs (1)(5)(iii) and (iv) of this section apply to all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish and to all other fishing equipment attached to longline pot gear that is deployed in the water by the vessel to fish IFQ sablefish. All other fishing equipment attached to longline pot gear includes, but is not limited to, equipment used to mark longline pot gear as required in § 679.24(a)(3).

(ii) *Pot limits.* A vessel operator is limited to deploying a maximum number of pots to fish IFQ sablefish in each IFQ regulatory area in the GOA.

(A) In the Southeast Outside District of the GOA, a vessel operator is limited to deploying a maximum of 120 pots.

(B) In the West Yakutat District of the GOA, a vessel operator is limited to deploying a maximum of 120 pots.

(C) In the Central GOA regulatory area, a vessel operator is limited to deploying a maximum of 300 pots.

(D) In the Western GOA regulatory area, a vessel operator is limited to deploying a maximum of 300 pots.

(iii) *Gear retrieval.* (A) In the Southeast Outside District of the GOA, a catcher vessel operator must retrieve and remove from the fishing grounds all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish when the vessel makes an IFQ landing.

(B) In the Southeast Outside District of the GOA, a catcher/processor must redeploy or remove from the fishing

grounds all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish within five days of deploying the gear.

(C) In the West Yakutat District of the GOA and the Central GOA regulatory area, a vessel operator must re-deploy or remove from the fishing grounds all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish within five days of deploying the gear.

(D) In the Western GOA regulatory area, a vessel operator must re-deploy or remove from the fishing grounds all longline pot gear that is assigned to the vessel and deployed to fish IFQ sablefish within seven days of deploying the gear.

(iv) *Longline pot gear used on multiple vessels.* Longline pot gear assigned to one vessel and deployed to fish IFQ sablefish in the GOA must be removed from the fishing grounds, returned to port, and must have only one set of the appropriate vessel-specific pot tags before being deployed by another vessel to fish IFQ sablefish in the GOA.

(6) *Retention of halibut.* (i) A vessel operator who fishes for IFQ sablefish using longline pot gear must retain IFQ halibut if:

(A) The IFQ halibut is caught in any GOA reporting area in accordance with paragraph (1) of this section; and

(B) An IFQ permit holder on board the vessel has unused halibut IFQ for the IFQ regulatory area fished and IFQ vessel category.

(ii) [Reserved]

(7) *Other requirements.* A vessel operator who fishes for IFQ sablefish using longline pot gear in the GOA must:

(i) Complete a longline and pot gear Daily Fishing Logbook (DFL) or Daily Cumulative Production Logbook (DCPL) as specified in § 679.5(c); and

(ii) Comply with Vessel Monitoring System (VMS) requirements specified in paragraph (k)(2) of this section.

(m) *BSAI halibut and sablefish pot gear requirements.* Additional regulations that implement specific requirements for any vessel operator who fishes for IFQ or CDQ halibut or IFQ or CDQ sablefish in the BSAI using pot gear are set out under § 300.61 of this title and §§ 679.2, 679.5, 679.7, 679.20, 679.22, 679.24, 679.25, 679.28, 679.42, and 679.51.

(1) *Applicability.* Any vessel operator who fishes for IFQ or CDQ halibut or IFQ or CDQ sablefish with pot gear in the BSAI must comply with the requirements of paragraph (m) of this section. The IFQ regulatory areas in the BSAI include 4B, 4C, 4D, and 4E and the portion of Area 4A in the Bering Sea Aleutian Islands west of 170°00' W long.

(2) *General.* To use pot gear to fish for IFQ or CDQ halibut or IFQ or CDQ sablefish in the BSAI, a vessel operator must:

(i) Retain IFQ or CDQ halibut caught in pot gear if sufficient halibut IFQ or CDQ is held by persons on board the vessel as specified in paragraph (m)(3) of this section; and

(ii) Comply with other requirements as specified in paragraph (m)(4) of this section.

(3) *Retention of halibut.* A vessel operator who fishes for IFQ or CDQ halibut or IFQ or CDQ sablefish using pot gear must retain IFQ or CDQ halibut if:

(i) The IFQ or CDQ halibut is caught in any IFQ regulatory area in the BSAI in accordance with paragraph (m) of this section; and

(ii) An IFQ or CDQ permit holder on board the vessel has unused halibut IFQ or CDQ for the IFQ regulatory area fished and IFQ vessel category.

(4) *Other requirements.* A vessel operator who fishes for IFQ or CDQ halibut or IFQ or CDQ sablefish using pot gear in the BSAI must:

(i) Complete a longline and pot gear Daily Fishing Logbook (DFL) or Daily Cumulative Production Logbook (DCPL) as specified in § 679.5(c); and

(ii) Possess a transmitting VMS transmitter and comply with the VMS requirements at § 679.28(f)(3) through (5).

(iii) Report pot gear information required when submitting a PNOL as described in § 679.5.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.42, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

EFFECTIVE DATE NOTE: At 85 FR 41200, July 9, 2020, § 679.42 was amended by adding paragraph (h)(1)(iii), effective July 8, 2020, through Dec. 31, 2020.