

## 2 Halibut - Consolidation of QS Holdings 1995-2011

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### 2.1 Introduction

Near the end of 1994 NOAA Fisheries (NMFS) first allocated halibut QS. By 1995, most of the eligible applicants had received their allocations, although some allocations continued over time as appeals were resolved. Persons began to transfer their QS shortly after the allocations started. Some of the QS transfers have been to persons who were entering the fishery for the first time; other transfers went to persons who had received initial allocations and who were adjusting their QS holdings.

Transfer transactions, revocations, or other administrative or legal actions can change the distribution of QS holdings. Permanent transfer activity includes routine transfers, court-ordered transfers, transfers associated with “sweep-ups” of QS blocks, and transfers associated with “swaps” of CDQ compensation QS across catcher vessel categories. This chapter provides an overview of the consolidation of QS holdings that have occurred due to all these factors during the first 17 years of the IFQ program.<sup>7</sup>

Persons may consolidate QS within the limits of the IFQ program regulations. There are several regulations designed to affect the nature of transfers and to limit the amount of QS aggregation. Some of the more important ones are listed below:

- QS is issued to persons and is specific to one of four halibut vessel categories. Under most circumstances, QS from one vessel category cannot be transferred to another vessel category. Rules that allow special catcher vessel category “swaps” are discussed in more detail below.
- Some QS is issued in nonseverable “blocks.” Block rules have changed over time. As of the end of 2011, a person could hold a maximum of three blocks of QS in an area, and persons with two blocks could not hold unblocked QS for that area; small blocks may be “swept” together to a maximum size block.<sup>8</sup> These rules are also discussed in more detail below.
- The program restricts who may buy catcher vessel QS. Only those who were originally issued catcher vessel QS or those who qualify as IFQ crewmembers by working for 150 days on the harvesting crew in any U.S. commercial fishery may buy catcher vessel QS.<sup>9</sup> Purchases of freezer vessel QS are not restricted in this way. The only corporations, partnerships, or other business entities that may purchase more catcher vessel QS are those that were initial QS recipients. An exception to these rules occurs when an individual transfers his/her own QS to his/her own solely owned corporation.<sup>10</sup>

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<sup>8</sup> “Sweep-ups” of small QS blocks are covered in detail in Chapter 6.

<sup>9</sup> See 50 CFR 679.42 (g)

<sup>10</sup> See 50 CFR 679.41(g); “IFQ crew” are defined in 50 CFR 679.2

<sup>11</sup> See 50 CFR 679.42 (j) and CFR 679.41 (g)(3)

- During the first two years of the IFQ program, persons could not hold or use, individually or collectively, more than 1% of the QS in Area 2C, more than 0.5% of the QS in Areas 2C, 3A, and 3B combined, or more than 0.5% of the QS in Areas 4A, 4B, 4C, 4D, and 4E combined. The rules allowed some initial issues to exceed some of these restrictions, but these persons were prevented from accumulating more QS. In June 1996 the Council approved an amendment that increased the combined total use caps in Areas 4A, 4B, 4C, 4D, and 4E from 0.5% to 1.5%. These percentages were then applied to the QS pool as it stood in 1996 to establish a set number of QS units that would be used as a cap from year-to-year. The other caps for Area 2C and the combined Areas 2C, 3A, and 3B were also changed to be expressed as fixed amounts of QS units. The final rule for this amendment became effective March 24, 1997.<sup>11</sup>

The halibut IFQ program created nonseverable “blocks” of QS that constrain QS consolidation. Persons received their QS in a block at initial allocation if their QS would have resulted in less than 20,000 pounds of halibut IFQ.<sup>12</sup> Blocks cannot be broken up for transfer, meaning all the QS in a block has to be sold or passed on to another person as a single unit. A person can hold a maximum of two blocks in an area, but a person with two blocks cannot hold any unblocked QS for the area. Through 2011 regulations allow persons to combine, or “sweep-up,” more than two blocks if their combined total is worth less than 3,000 pounds of a hypothetical halibut IFQ.<sup>13</sup> These sweep-ups are discussed in more detail in Chapter 6.

The IFQ program also included provisions that set aside part or all of the TACs in Areas 4B, 4C, 4D, and 4E for community development quotas (CDQs). Setting aside TAC for CDQs effectively reduced the harvest limits of individuals who were initially allocated QS in these areas.<sup>14</sup> The IFQ plan contained provisions designed to compensate the QS holders for this reduction. The goal of the plan was to spread the burden of the compensation equally among all persons who initially received halibut QS. Compensation was provided by giving persons receiving QS from the CDQ areas (Areas 4B, 4C, 4D, and 4E) additional QS in each of the management areas in which CDQs were not allocated (Areas 2C, 3A, 3B, and 4A).

Some persons who received CDQ compensation QS in Areas 2C, 3A, 3B, and 4A already had QS in one or more of those areas. When this occurred, their CDQ compensation was rolled into their existing QS holding. It was either “blocked” or “unblocked,” depending upon the size of the combined holding.

However, in many cases persons received CDQ compensation QS in areas where they had not previously fished or been issued regular QS. When this occurred, a person’s catcher vessel CDQ compensation was unblocked and “swappable” to another catcher

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<sup>12</sup> See 50 CFR 679.42(f).

<sup>13</sup> See 50 CFR 679.40(a)(1). The 20,000 pounds is actually a hypothetical IFQ based on 1994 TACs and the amount of QS in the QS pool on October 17, 1994. The halibut QS equivalent calculated for this blocking limit is equivalent to different amounts of IFQ from year-to-year as TACs and the amount of QS in the QS pool change.

<sup>14</sup> The original sweep-up limit was 1,000 pounds. In April 1996 the Council approved an amendment that increased the halibut sweep-up limit to 3,000 pounds. This regulation is now incorporated into 50 CFR 679.41(e)(3). The 3,000 pounds of hypothetical IFQ was based upon 1996 TACs for an area and the QS pool as of January 31, 1996. The regulation translates the rule into a specific amount of QS units for each halibut area. This amendment became effective in December 1996. In 2007, sweep up limits again changed- see chapter 6.

<sup>15</sup> The CDQ regulations are contained in 50 CFR 679.30 and 50 CFR 679.31(b) and(c). The provisions for CDQ compensation are contained in 50 CFR 679.41(j).

vessel category upon the first transfer. Moreover, this “swappable” catcher vessel CDQ compensation QS can be used on any size catcher vessel until it is swapped or transferred. These rules facilitate the transfer and use of CDQ compensation QS.<sup>15</sup>

Because of the CDQ compensation “swap” regulation, the total amount of QS may change in an area and vessel category after initial allocation. Such changes do not affect the management area totals, however, as QS is only being swapped between catcher vessel categories within an area.

In January 1996, the Council approved a “fish down” amendment that allows catcher vessel QS to be used on vessels of the same vessel size class or smaller. The Council did this to allow more flexibility for QS holders to acquire more catcher vessel QS. The amendment allows the use of larger vessel category QS on smaller vessels, except in Area 2C where “fish down” of category B (greater than 60 feet) QS was allowed only for blocks worth less than 5,000 pounds (based upon 1996 TACs). This amendment became effective August 16, 1996.<sup>16</sup> A 2007 amendment removed the area 2C fish down restriction and allowed “fish up” in certain areas to provide greater flexibility and harvest efficiency.<sup>17</sup>

Table 2-1a provides an overview of the distribution of halibut QS at initial allocation and year end of 2011. The table shows the total amount of QS and the number of QS holders in each management area, along with the change and percent change from initial issuance through year end 2011.

The negative net changes in total QS in Areas 2C, 3A, 3B, 4A, 4B, and 4D are the result of QS revocations by NOAA-RAM, which may revoke some, or all, of a person’s QS. Revocations do not occur until the QS holder has been given an opportunity to appeal in administrative revocation decision, or until after a civil penalty has been levied by the agency.

The number of QS holders decreased in all areas from initial issuance thru 2011. This is primarily due to the greater number of persons leaving halibut fisheries even as others consolidate holdings or newly enter fisheries. QS revocations may also lower the number of persons who hold QS. The drop in the number of QS holders was substantial in non-CDQ areas 3A through 4A, ranging from 53.2% to 58.6% of the number of persons who were initially issued QS in those areas. In Areas 4B through 4D, the percentage decreases were smaller. Note that in Area 4E, 100% of the TAC in each year has been allocated to CDQs, resulting in very low QS transfer levels.

Table 2-1b provides further data on QS consolidation. Consolidation of QS holdings is indicated by the increase in the average and median QS holdings from initial issuance to the end of 2011. The median QS holdings rose in all areas except 4C and 4E. The average QS holdings rose in all areas except 4E.

Table 2-1b also shows the median QS holdings in all areas were substantially lower than the average QS holdings, indicating a skewness toward persons with small holdings.

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<sup>16</sup> See 50 CFR 679.41(i)

<sup>17</sup> See 50 CFR 679.40(a)(5)(ii) and 679.42(a)

<sup>18</sup> 72 FR 44795, August 9, 2007

**Table 2-1a. Initial Issuance and Year-end 2011 QS and QS Holders by Management Area**

Area	Initial Amount of QS Units	2011 Year-end QS Units	Net Change in Total QS Units	Percent Change QS Units	Initial QS Holders	2011 Year-end QS Holders	Person Net Change	Percent Change QS Holders
2C	59,568,892	59,552,039	-16,853	-0.03	2,388	1,130	-1,258	-52.7
3A	185,492,433	184,911,315	-581,118	-0.31	3,071	1,431	-1,640	-53.4
3B	54,516,403	54,203,176	-313,227	-0.57	1,056	494	-562	-53.2
4A	14,634,439	14,587,099	-47,340	-0.32	531	220	-311	-58.6
4B	9,293,391	9,284,774	-8,617	-0.09	152	90	-62	-40.8
4C	4,016,352	4,016,352	0	0.00	81	53	-28	-34.6
4D	4,923,638	4,958,250	34,612	0.70	69	47	-22	-31.9
4E	139,999	139,999	0	0.00	104	103	-1	-1.0

**Table 2-1b. Consolidation of Halibut QS Holdings from Initial Allocation Through Year-end 2011, by Management Area**

Area	Initial Median QS Held	2011 Year-end Median QS	Net Change in Median QS Units	Percent Change Median QS	Initial Average QS Held	2011 Year-end Avg. QS	Net Change in Avg. QS Units	Percent Change Avg. QS
2C	9,553	15,163	5,610	58.7	24,945	52,701	27,756	75.3
3A	14,016	25,743	11,728	83.7	60,401	129,218	68,817	70.6
3B	11,382	33,379	21,998	193.3	51,625	109,723	58,098	99.6
4A	3,539	14,573	11,034	311.8	27,560	66,305	38,745	100.5
4B	30,955	34,350	3,396	11.0	61,141	103,164	42,023	41.9
4C	29,875	27,161	-2,714	-9.1	49,495	75,780	26,285	30.9
4D	44,677	45,845	1,169	2.6	71,357	105,495	34,138	47.8
4E	361	361	0	0.0	1,346	1,359	13	1.0

## 2.2 QS Consolidation by Vessel Category

The halibut IFQ program created four distinct vessel categories in each of the eight halibut management areas. One vessel category consists of harvester-processor vessels (designated “freezer”); the other three consist of catcher vessels less than or equal to 35 feet, from 36 to 60 feet, and greater than 60 feet. Under most circumstances, QS cannot be transferred across vessel categories; however, the regulations provide for vessel category “swaps” of catcher vessel CDQ compensation QS on first transfer.

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In January 1996, the Council approved a “fish down” amendment that allows catcher vessel QS to be used on vessels of the same vessel size class or smaller. The Council did this to allow more flexibility for QS holders to acquire more catcher vessel QS and to foster use of smaller vessels in an “owner operator” fleet. The amendment allows the use of larger vessel category QS on smaller vessels, except in Area 2C where “fish down” of category B (greater than 60 feet) QS is allowed only for QS blocks worth less than 5,000 pounds (based upon 1996 TACs). This amendment became effective August 16, 1996 and remained in effect through 2011.<sup>19</sup>

<sup>19</sup> IFQ from swappable catcher vessel CDQ compensation QS can be fished from any catcher vessel category and can be permanently “swapped” to another catcher vessel category upon the first transfer. See 50 CFR 679.41(i).

<sup>20</sup> See 50 CFR 679.40(a)(5)(ii) and 679.42(a). As noted above The area 2C fish down exception was removed in 2007 and some areas “fish up” provisions were implemented.

Tables 2-2a and 2-2b show that halibut QS was issued in 30 different area/vessel category combinations. There were no qualifying freezer vessels in Area 4E, nor were there vessels in the “35 foot or less” category in Area 4D.

Table 2-2a indicates that in Areas 2C and 3A, more QS was issued in the 36-60 foot category than in other vessel categories. In Area 4E, most QS was issued in the “35 foot or less” category. In all other areas, the greatest percentage of QS was issued in the “over 60 feet” vessel category. At the end of 2011, the greatest percentages of QS were still held in these same vessel categories in their respective areas.

As explained previously, changes in QS distribution among vessel classes will be small, because QS transfers across vessel categories are only allowed by special rules for the “swap” of CDQ compensation QS. Quota share revocations also changed the amounts of QS within a vessel category between initial issuance and year-end 2011.

Table 2-2b shows the initial and year-end 2011 distributions of QS holders in each area vessel category combination. It also indicates average QS holdings, changes in the number of persons, and average QS holdings for each vessel category.

A person may hold QS in more than one vessel category in an area. For this reason, the sum of QS holders in the different area/vessel category combinations can be greater than the number of unique persons who hold QS in the area, as reported in Table 2-1a and other tables in this report.

The greatest consolidation occurred, in both a numeric and percent basis, in Areas 2C, 3A, 3B, and 4A. Note these are the management areas in which persons received CDQ compensation QS at initial issuance. Many of the persons who were issued CDQ compensation received only small amounts of QS in areas in which they had no prior history of fishing. A considerable amount of CDQ compensation QS was transferred (see Chapter 5) and contributed to the decrease in the number of QS holders in the areas.

As one would expect, average QS holdings increased in most of the areas and vessel categories that experienced declines in the number of QS holders. QS revocations also decreased average QS holdings slightly. Therefore, QS revocations partly offset increases in average holdings due to consolidation.

### **2.3 QS Consolidation by Size of QS Holding**

The tables in this section provide information on QS distribution at initial issuance and year-end 2011 by area and the relative size of the QS holding. Quota share holdings are classified based on their percentage of the total QS pool in the area. There are nine distinct size categories. It is important to remember that a unit of QS translates to different amounts of IFQ in each area.

The IFQ program rules constrain how much QS a single person may accumulate. In 1995 and 1996, no person, individually or collectively, could use more than 1% of the QS in Area 2C, more than 0.5% of the QS in Areas 2C, 3A, and 3B combined, or more than 0.5% of the QS in Areas 4A, 4B, 4C, 4D, and 4E combined. The rules allowed some initial issuees to exceed some of these restrictions, but these persons were prevented from accumulating more QS.

In June 1996 the NPFMC approved an amendment that increased the combined total caps in Areas 4A, 4B, 4C, 4D, and 4E from 0.5% to 1.5%. This percentage was then applied to the 1996 QS pool to establish a permanent amount of QS that would be used as a cap from year-to-year. The final rule for this amendment became effective March 24, 1997.<sup>20</sup>

Table 2-3a indicates that in Area 2C, 87.0% of the QS was initially issued to persons who held less than 0.25 percent of the total area QS. In Areas 3A and 3B, 76.8% and 42.0% of the respective QS fell into this classification. In Areas 4A through 4E, the QS was distributed among a wider range of size categories.

Consolidation of QS holdings has led to a reduction in the amount of QS in the smallest size category in all areas except 4E, where there were very few transfers and where all of the TAC is allocated to CDQs. The differences in the distribution from initial issuance to the end of 2011 largely reflect the degree of consolidation.

Table 2-3b provides similar information as Table 2-3a, but shows the number of persons at initial issuance and year-end 2011 by management area and relative size of QS holding. The table shows that the majority of QS holders in Areas 2C to 4A each received less than .25% of the total area QS. After initial issuance in these areas, the number of QS holders in this category dropped significantly. In Area 2C, there was a 21.9% decrease in the number of persons in the “less than .25%” classification, and in Areas 3A, 3B, and 4A the decreases were 16.9%, 19.9%, and 77.9%, respectively. Note that Areas 2C to 4A are areas in which persons were issued CDQ compensation QS, and some of this decrease may have been related to such persons transferring away that type of QS.

In the other areas from 4B through 4E, where fewer persons were issued QS, QS holders were more widely distributed among different owner categories. The actual numbers of persons who changed QS size categories in these areas was smaller than in areas 2C to 4A. There were relatively few persons who held large percentages of any area’s QS pool. The only persons who held percentages larger than 3% at initial issuance and at the end of 2011 were in Areas 4A, 4B, 4C, 4D, and 4E. Again, relatively few persons were initially issued QS in these areas.

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<sup>21</sup> See 50 CFR 679.42(f) and 50 CFR 679.41(c)(6).