

2 Sablefish - Consolidation of QS Holdings

2.1 Introduction

Near the end of 1994 NOAA Fisheries (NMFS) first allocated sablefish QS. By 1995, most of the eligible applicants had received their allocations; however, 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 were adjusting their QS holdings.

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

The sablefish IFQ program has many special features that serve to constrain the nature and extent of QS consolidation, of which the most significant are listed below:

- QS is issued to persons and is specific to one of three 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.” A person may hold a maximum of two blocks of QS in an area, and persons with two blocks may not hold unblocked QS in that area; small blocks may be “swept” together to a maximum size block. These rules are also discussed in more detail below.⁸
- The program restricts who may buy catcher vessel QS are restricted. Only those who were originally issued catcher vessel QS or those who qualify as IFQ crew members by working for 150 days on the harvesting crew in any U.S. commercial fishery may buy catcher vessel QS.⁹ Purchases of freezer vessel QS are not restricted in this way. The only corporations, partnerships or other business entities that may acquire 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.¹⁰
- From 1995 through 1996, no person could use, individually or collectively, more than 1% of the combined total sablefish QS of all regulatory areas unless the amount in excess of 1% was received at initial allocation. In the Southeast regulatory area, no person could use, individually or collectively, an amount of

⁷ Sweep-ups” of small QS blocks are covered in detail in Chapter 6.

⁸ See 50 CFR 679.42 (g)

⁹ See 50 CFR 679.41 (g) “IFQ crew” are defined in 50 CFR 679.2

¹⁰ See 50 CFR 679.42(j) and 50 CFR 679.41(g)(3)

sablefish QS that was more than 1% of the total for that area, unless the amount in excess was received at initial allocation.¹¹

The sablefish IFQ program created nonseverable “blocks” of QS that constrain QS consolidation. Persons received their QS in a block if their initial QS allocation resulted in less than 20,000 pounds of sablefish IFQ.¹² Blocks cannot be broken up for transfer; 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. The regulations allow persons to combine, or “sweep-up,” more than two blocks if their combined total is worth less than 5,000 pounds of a hypothetical sablefish IFQ.¹³ 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 the Bering Sea and Aleutian Islands management areas for community development quotas (CDQs). Setting aside TAC for CDQs effectively reduced the harvest limits of individuals who were initially allocated QS in those areas.¹⁴ The IFQ plan contained provisions designed to compensate QS holders for this reduction. The goal of the plan was to spread the burden of the CDQs equally among all persons who initially received sablefish QS. Compensation was provided by giving persons receiving QS in the CDQ areas (Bering Sea and Aleutian Islands) additional QS in each of the management areas in which CDQs were not allocated (Southeast, West Yakutat, Central Gulf and Western Gulf).

Some persons who received CDQ compensation QS in the Southeast, West Yakutat, Central Gulf, and Western Gulf management areas 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 were issued regular QS. When this occurred, a person’s catcher vessel CDQ compensation was unblocked and “swappable” to another catcher 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.¹⁵ 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, because the QS is only being “swapped” between catcher vessel categories and does not transfer outside the 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

¹¹ See 50 CFR 679.42(e)

¹² See 50 CFR 679.40(a)(1). The 20,000 pounds is actually a hypothetical IFQ based on 1994 TACs and the amount of the QS in the QS pool on October 17, 1994. The sablefish QS equivalent calculated for this blocking limit is worth different amounts of IFQ each year as TACs and the amount of QS in the QS pool changes.

¹³ The original sweep-up limit was 3,000 pounds. In April 1996, the Council approved an amendment that increased the sweep-up limit to 5,000 pounds. This regulation is now incorporated into 50 CFR 679.41(e). The 5,000 pounds of hypothetical IFQ was based upon 1996 TACs and the QS pool as of January 31, 1996. The regulation translates the rule into a specific amount of QS units for each management area effective December 31, 1996.

¹⁴ 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(i).

¹⁵ See 50 CFR 679.41(i)

did this to allow more flexibility for QS holders to acquire more catcher vessel QS. The amendment allowed the use of larger vessel category QS on smaller vessels, except in the Southeast area where “fish down” of category B (larger than 60 feet) QS is allowed only for blocks worth less than 5,000 pounds (based upon 1996 quotas). This amendment became effective August 16, 1996.¹⁶ A later amendment removed the Southeast fish down restriction to provide greater operational flexibility and harvest efficiency.¹⁷

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

The negative net changes in total QS in three of the six areas are the result of NOAA-RAM QS revocations. Revocations do not occur until the QS holder has been given an opportunity to appeal an administrative revocation decision, or until after a civil penalty has been levied by the agency.

Even as initial issues left the program new entrants acquired qs lowering the balance of the number of QS holders in all areas. The greatest decline in QS holders, both by numbers and percent has been in the Southeast, West Yakutat, and Central Gulf areas. The decline in QS holders has been less in the other areas, ranging from 31.9% of the total persons who were initially issued QS in the Aleutian Islands area to 29 % of the total initial issues in the Bering Sea.

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 average and median QS holdings rose in all areas.

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

¹⁶ See 50 CFR 679.40(a)(5)(ii) and 679.42(a)

¹⁷ 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
Southeast	66,598,479	66,120,619	-477,860	-0.7	715	410	-305	-42.7
W. Yakutat	53,470,436	53,266,430	-204,006	-0.4	456	238	-218	-47.8
C. Gulf	111,544,461	111,686,632	142,171	0.1	643	369	-274	-42.6
W. Gulf	36,086,355	36,029,579	-56,776	-0.2	232	163	-69	-29.7
Bering Sea	18,626,676	18,790,367	163,691	0.9	145	103	-42	-29.0
Aleutians	31,518,176	31,932,492	414,316	1.3	135	92	-43	-31.9

Table 2-1b. Consolidation of Sablefish 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 Units
Southeast	23,613	38,587	14,974	63.4	93,145	152,352	59,207	63.6
W. Yakutat	15,798	43,174	27,376	173.3	117,260	195,115	77,855	66.4
C. Gulf	22,462	58,841	36,379	162.0	173,475	264,035	90,560	52.2
W. Gulf	10,361	58,796	48,435	467.5	155,545	192,672	37,127	23.9
Bering Sea	47,421	55,938	8,517	18.0	128,460	167,547	39,087	30.4
Aleutians	60,930	77,125	16,195	26.6	233,468	310,024	76,556	32.8

2.2 QS Consolidation by Vessel Category

The sablefish IFQ program created three distinct vessel categories in each of the six sablefish regulatory areas. One vessel category consists of harvester-processor (called “freezers”) vessels; the other two consist of catcher vessels less than or equal 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.¹⁹

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 using small vessels or small vessel owners to acquire (or host respectively) more catcher vessel QS. The amendment allows the use of larger vessel category QS on smaller vessels, except in the Southeast area where “fish down” of category B (larger than 60 feet) QS is allowed only for blocks equivalent to less than 5,000 pounds (based upon 1996 quotas). This amendment became effective August 16, 1996.²⁰ The Southeast fish down exception was eliminated in 2007.

¹⁹ 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 CFR 679.41 (i).

²⁰ See 50 CFR 679.40(a)(5)(ii) and 679.42 (a).

Tables 2-2a and 2-2b show that at initial issuance sablefish QS had been issued in 18 different area/vessel category combinations. A person may hold QS in more than one vessel category in an area. For this reason, the sum of the 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.

Table 2-2a indicates that in the Southeast area, use of vessels 60 feet or less resulted in more QS than did other vessel categories. In the Aleutians, most of QS was issued in the freezer vessel category. In all other areas, the greatest percentage of QS was issued in the “over 60 feet” vessel category. As expected, at the end of 2011 the greatest percentage of the QS was still held in these same vessel categories in their respective areas.

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

Table 2-2b shows the initial and 2011 year-end distribution 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 in each vessel category. There were often considerable differences between the percentage of QS issued in a vessel category and the percentage of total area QS holders who hold QS at that category. For example, 63.5% of the persons who were initially issued QS in the West Yakutat area received their QS in the “less than or equal to 60 foot” vessel category, yet these persons held only 31.1% (Table 2-2a) of the total QS in the area. In contrast, relatively few persons in each area were issued QS in the freezer vessel category, but they were issued a proportionately larger percentage of the area QS due to the larger capacity of freezer vessels on what type of QS was historically earned.

In nearly all vessel categories and areas, the number of QS holders whether or not initially issued declined from initial issuance to the end of 2011. The freezer vessel category in the Aleutian Islands area was the only instance in which the number of QS holders stayed the same or increased even slightly.

The greatest amount of consolidation occurred, both numerically and on a percent basis, in Southeast, West Yakutat, and the Central Gulf. Note that these are management areas with both the largest numbers of initial issuees and 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. It is likely that a considerable amount of this QS was transferred (see Chapter 7), contributing to the relatively greater decrease in the number of QS holders in these areas. Other factors also contributed to the decrease.

As one would expect, average QS holdings increased in all of the areas and vessel categories where there were declines in the number of QS holders. Changes in average QS holdings will also be affected by QS revocations. If the QS pool is decreased by QS revocations, then average QS holdings will also decrease. Therefore, QS revocations can 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 into nine distinct size categories based upon their percentage of the total QS pool in the area. It is important to remember that a unit of QS translates into different amounts of IFQ in each area.

The IFQ program rules constrain how much QS a single person may accumulate. No person, individually or collectively, may use more than 1% of the combined total sablefish QS of all management areas unless the amount in excess of 1% was received at initial allocation. In the Southeast management area, no person may use, individually or collectively, an amount of sablefish QS that is more than 1% of the total for this area, unless the amount in excess was received at initial issuance.²¹

Table 2-3a indicates that 35.8% of the QS in the Southeast area was issued to persons who held less than .25 percent of the total area QS; whereas in the West Yakutat and Central Gulf areas, 18.8% and 22.9% of the respective area QS fell into this classification. In the Western Gulf, Bering Sea, and Aleutian Islands QS holdings were distributed among a wider range of the size classifications.

Table 2-3b provides similar information, 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 in all areas the greatest number of QS holders fall into the “less than .25%” classification, especially in the Southeast, West Yakutat, and Central Gulf areas. For example, in the Southeast area, 83.4% of the persons were issued QS in amounts that represented less than 35.8% of the total area QS. The number of persons who were issued less than 25 % of the total area QS dropped significantly in all areas after initial issuance. This is due mainly to QS consolidations.

There were relatively few persons who held large percentages of an area’s QS pool. All of the persons who held percentages larger than 3% at initial issuance and at the end of 2011 were in the Western Gulf, Bering Sea, and Aleutian Islands. There were relatively few initial recipients in these areas.

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²¹ See 50 CFR 679.42(e) and 50 CFR 679.41 (c)(6)