

**JUSTIFICATION FOR CHANGE
ALASKA PACIFIC HALIBUT FISHERIES: LIMITED ACCESS FOR
CHARTER HALIBUT VESSELS
OMB CONTROL NO. 0648-0592**

This request is to require those who are applying to transfer a single bundle of more than five charter halibut permits to submit a copy of a business sale contract, when applicable, with the transfer application.

When the final rule Regulation Identifier Number (RIN) 0648-AW92 becomes effective, a limited access permit program will be implemented for vessels that provide guided (charter) fishing services for anglers catching and retaining Pacific halibut in Southeast and Southcentral Alaska. To prevent excessive consolidation, the charter halibut permit program would prohibit a person from holding more than five charter halibut permits.

There are two exceptions to the five-permit maximum. A person may hold more than five charter halibut permits if the person (1) is initially issued more than five permits, or (2) receives by transfer all permits initially issued to a business that also is being transferred to that person in its entirety (vessels, lodges, fishing equipment, etc). The North Pacific Fishery Management Council recommended that National Marine Fisheries Service (NMFS) include the second exception to the five-permit maximum in order to allow for succession of individual businesses, such as a transfer to a family member. Originally, the applicant applying for permit transfers under the second exception to the five-permit maximum would have been required to attest on the transfer application that all business assets were being transferred along with the permits; no further documentation would have been necessary.

After reviewing the comments received on the proposed rule (74 FR 18178, April 21, 2009), and the charter halibut permit transfer application, NMFS determined that applicants applying under the second exception to the five-permit maximum should also be required to submit a copy of the business sale contract with the transfer application. Comment 103 on the proposed rule recommended that NMFS remove the requirement that a transfer of more than five permits be contingent on the transfer of all business assets. The commenter noted that a business sale is a market decision between the buyer and seller, and the transfer of charter halibut permits should not rely on whether this private transaction includes all business assets. The commenter also noted that the transfer of all assets requirement did not seem administratively feasible or appropriate.

NMFS determined that it would not remove the requirement for transfer of all assets from the final rule, as suggested by the commenter, because the North Pacific Fishery Management Council recommended this limited exception to the five-permit maximum. Requiring applicants for permit transfers under this exception to submit a copy of the business sale contract would (1) provide verifiable documentation that a business is being transferred along with all initially issued charter halibut permits, and (2) enable NMFS to implement the Council's recommendation. NMFS would not define or describe all of the assets that would have to be included in the sale of a charter vessel fishing business because each sale will be unique.

As the rule did not specify the items required for a transfer, this added requirement for a copy of the business sale contract is an administrative decision, although based on discussion during the rulemaking process.

We are not at this time revising our burden estimate: the additional burden of providing a copy of the business sale contract along with the transfer application is minimal because sale contracts are a standard component of business transactions and should be readily available to applicants. No additional cost is estimated because the costs for other attached documentation would incorporate any additional postage. Eight participants are potentially in a position to make this transfer.