


MEMORANDUM

TO: Council and AP Members
FROM: Chris Oliver 
Executive Director
DATE: December 1, 2010
SUBJECT: Halibut/Sablefish IFQ Program

ESTIMATED TIME
6 HOURS
(all C-4 items)

ACTION REQUIRED

- (a) Initial review of CQE Area 3A purchase of Area 3A D category halibut quota
- (b) Review discussion paper on a new CQE Program in Area 4B
- (c) Initial review/Final action to add up to four new eligible CQE communities

BACKGROUND

- (a) Initial review of CQE Area 3A purchase of Area 3A D category halibut quota

The Council approved the Community Quota Entity (CQE) Program as an amendment to the halibut and sablefish IFQ Program in 2002 (GOA Amendment 66), and the program was implemented in 2004. Halibut quota share is designated under four vessel categories: freezer (catcher processor) category (A share); catcher vessels greater than 60' LOA (B share); catcher vessels 36' to 60' LOA (C share); and catcher vessels 35' LOA or less (D share). Under the original IFQ Program, only persons who were originally issued catcher vessel quota share (B, C, and D category QS) or who qualify as IFQ crew members¹ were allowed to hold or purchase catcher vessel quota share. Thus, only individuals² and initial recipients could hold catcher vessel quota share. The CQE Program was developed in order to allow a distinct set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase halibut and sablefish catcher vessel quota share, in order to maintain access to these fisheries.

In order to participate, eligible communities must form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and the IFQ resulting from the QS is leased to community residents annually. In effect, the CQE remains the holder of the QS, creating a permanent asset for the community to use to benefit the community and its residents. The QS can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the QS must remain with the community entity.

The existing CQE Program prohibits CQEs representing communities in IPHC regulatory Area 2C and Area 3A from purchasing D category halibut quota share; only B and C category are allowed to be purchased.

¹IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2).

²Per 50 CFR 679.2: Individual means a natural person who is not a corporation, partnership, association, or other such entity.

Generally, D shares are the least expensive category of halibut QS, as they can only be used on the smallest category of vessel. Category D quota shares are often used by smaller operations, or new entrants, and there is a relatively small amount of D share quota designated in each area. One of the primary reasons the Council established a prohibition on the CQE purchase of D shares was to help ensure that D shares would continue to be available to new entrants and crew members that wanted to start their own businesses. There was concern that an influx of CQEs in Area 2C and 3A would drive up the market for D shares, and result in more expensive, and fewer available, shares for individuals. CQEs, like any new entrant, have had difficulty in funding the purchase of QS, and very little QS has been purchased through the program to-date. Allowing CQEs to purchase the least costly category of QS may help facilitate the purchase of QS and participation in the program. In addition, D category QS corresponds to the type of vessel that most residents use in these smaller communities.

The proposed action would amend Federal regulations to allow CQEs representing communities in Area 3A to purchase Area 3A D category halibut quota share, with specified limitations. The prohibition on purchasing D category QS in Area 2C would remain. There are fourteen eligible CQE communities in Area 3A, eight of which have formed CQEs approved by NMFS to-date. The proposed action includes two alternatives:

Alternative 1. No action. Regulations at 50 CFR 679.41(g)(5) would remain unchanged. Current regulations state that “A CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D.”

Alternative 2. Community Quota Entities located in halibut management Area 3A are permitted to purchase Area 3A “D” category quota share with the following limitations:

- a. Area 3A “D” category quota share purchased by Area 3A CQEs must have the annual IFQ fished on “D” category vessels ($\leq 35'$ LOA).
- b. Area 3A CQEs are limited in their cumulative purchase of “D” category quota shares to an amount equal to the total “D” category quota shares that were initially issued to individuals that resided in Area 3A CQE communities.

This issue was submitted as an IFQ proposal during the 2009 call for IFQ proposals, and an analysis was initiated by the Council in February 2010. The Council is scheduled to review the initial review draft analysis at this December meeting, and determine whether to release the analysis for public review. The analysis was sent to you on November 12, and the executive summary is attached as **Item C-4(a)**.

(b) Review discussion paper on a new CQE Program in Area 4B

The CQE Program was developed in order to allow a specified set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase halibut and sablefish catcher vessel quota share, in order to maintain community access to these fisheries. In order to participate, eligible communities must form non-profit corporations called Community Quota Entities to purchase catcher vessel QS, and the IFQ resulting from the QS is leased to community residents annually. The existing program is limited to IPHC regulatory Area 2C, Area 3A, and Area 3B.

In February 2010, the Council reviewed an IFQ proposal from the Adak Community Development Corporation (ACDC), to create a CQE Program in the Aleutian Islands in Area 4B. Given the proposed problem statement and criteria for eligibility, the intent is to allow ACDC to become a CQE representing the community of Adak for the purpose of purchasing Area 4B halibut and AI sablefish catcher vessel QS, for lease to individual fishermen to deliver within the Area 4B region. Adak is the only community that would be eligible for the

program. This proposal was reviewed and recommended for analysis by the IFQ Implementation Committee at its February 2010 meeting. Upon review of the committee report and public testimony, the Council tasked staff to develop a discussion paper on this issue, using the proposal as a starting point.



Communities located in IPHC Area 4B (Attu Station, Adak, Atka)

The discussion paper outlines the elements of the proposed program, which is structured similarly to the existing Gulf of Alaska CQE Program, with recognized exceptions. The most notable departure from the Gulf program is the absence of the requirement to lease CQE-held QS to community residents. Instead, QS could be leased to any eligible fishermen, with the requirement to deliver within the Area 4B region. The only two shoreside processors located in Area 4B are in Adak and Atka. Primary issues include how to ensure Adak would receive the intended benefits of the QS under the proposed program, and the future viability of a shoreside processor in Adak, as the crux of the program appears to depend upon an operational processor in the community. Note that the discussion paper states that the recent owner of the shoreside processor (Adak Seafood LLC) has negotiated a new lease agreement³ and may be in operation in 2011. However, after the discussion paper was released, staff was made aware that one of the investors stopped financing the company, and attempts to secure financing from other sources has not yet been successful. As a result, Adak Seafood may not be operational in the near-term.

The discussion paper is attached as Item C-4(b). Upon review, the Council could take no further action; request further information prior to initiating an analysis; or approve a problem statement and suite of alternatives for analysis. The discussion paper includes the problem statement and alternatives and options proposed in the original IFQ proposal.

(c) Initial review/Final action to add up to four new eligible CQE communities

The Council approved the Community Quota Entity (CQE) Program as an amendment to the halibut and sablefish IFQ Program in 2002 (GOA Amendment 66), and the program was implemented in 2004. Since implementation, 42 communities located in IPHC Areas 2C, 3A, and 3B in the Gulf of Alaska are listed in Table 21 to 50 CFR Part 679 as eligible to participate in the CQE Program. The Council included this list of

³The settlement notice was filed in Federal court on 11/8/10: <http://www.scribd.com/doc/41819001/Adak-settlement-notice>

communities in its original motion approving the CQE Program. This action considers amending Federal regulations to add up to four new communities to the list of communities eligible to participate, based on the same criteria used to determine eligibility in the original program. If determined eligible, these new communities would be subject to the same provisions and restrictions as all other eligible communities. The communities evaluated for eligibility in this analysis are Game Creek, Naukati Bay, Kupreanof, and Cold Bay.

Two communities (Naukati Bay and Game Creek) have separately petitioned the Council for inclusion (**Item C-4(c)(1)**). Two additional communities are evaluated in order to provide for consideration the maximum number of communities that may have met the original criteria and were not included.

This issue was reviewed and recommended for analysis by the Council at its February 2010 meeting. The analysis for this action is scheduled for both initial review and final action at this December Council meeting, due to the straightforward nature of the action. The analysis was mailed to you on November 5, and the executive summary is attached as **Item C-4(c)(2)**.