

Proposals Submitted by IFQ Committee Members

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Loan Program

1. Change government loan down payment or repayment structure (M. Offerman)

I discussed this topic with numerous stake holders over the course of the 2017 fishing season. I talked with many second generation IFQ holders and deckhands.

The most recurring theme was the cost of quota was too high. They all would love to buy some but were unable to secure the financing. When I asked them about the government loan program they nearly all said the same thing that the requirement for 20% down was standing in the way.

After careful consideration I came up with an alternative that I believe could greatly reduce that barrier.

The potential policy change would only apply to the first 1,000-8,000 pounds of quota owned. **The major change would require little to no down payment. i.e. 0%-10% down.**

Alternatively, the government could require that the loan payment would be satisfied with a simple percentage of the quotas ex-vessel price. 15%-50% to be taken off the top and paid directly to the loan program. Similar to the way the observer tax is taken. Once 20% of the purchase price has been paid then payment structure could be rolled or refinanced into a more traditional loan style.

The IFQ itself would be the collateral. The second-generation fisherman would realize the same benefit that initial recipients received by being able leverage quota for loans with little or no money down. If the fisherman defaults the loan would be confiscated and sold to repay and debt owed.

To make ensure that current second-generation fisherman would be the most likely to benefit I propose to increase the days at sea requirement from the current 150 days in any fishery to 150 days at sea *actively fishing halibut or black-cod*.

This also makes it more likely they have a stable fishing job and a better chance of not defaulting on the loan. This last requirement would only apply to this type of loan. However, it might be worth applying it to the current IFQ loan program as well.

Next the implementation of a mentoring program where young inexperienced fishermen could gain valuable fishing experience could be coupled with the new provision. The question of liability would need to be addressed. Who pays for the added insurance cost and what happens if they are injured while onboard the vessel.

2. Requests for analysis (J. Farvour)

- “Identify why the Federal IFQ loan program is not working”
- “Assess how the 25% to the FSD is being used/not used; improve qualifying fishermen’s accessibility to the FSD loan program. Reform how 25% is used; use for new entrant pool or ??”

3. Change lending requirements for 2nd generation fishermen (S. McManus)

I feel the two biggest hurdles facing entry level 2nd generation fishers are availability of IFQ and the near prohibitive costs of said IFQ. Therefore, my proposal is as follows:

Loosen up federal lending requirements for young 2nd generation fishermen who don't already own quota by decreasing the down payment required. In exchange, the IFQ payment would be deducted at the dock upon landing similar to the way observer fees are collected, thus reducing the risk of default on Federal loans.

To help solve the issue of halibut and sablefish IFQ availability for 2nd generation fishers, I propose pushing legislation that would remove capital gains taxes which range from 15-23.8% of realized gains from the sale of halibut or sablefish IFQ owned by a first generation or initial recipient provided that the sale of said quota is purchased by a qualified second-generation fisher. Some options to consider are:

- Waiver of capital gains tax for a flexible period of 2-3 years for the outright sale of IFQ in order to both provide an opportunity for first generation fishers to make an educated business decision as well as for the NPFMC to get a sense as to either shortening or lengthening the time frame in order to accomplish the goal of affording better halibut and sablefish quota purchase opportunities for 2nd generation fishers.
- Waiver of capital gains tax for owner financing of IFQ to 2nd generation fishers provided loan is initiated in the 2- to 3-year capital gains tax waiver period. Initial recipient would be listed as loan holder until loan is paid off. Should 2nd generation fisher default on the loan, the Initial recipient would repossess the IFQ without capital gains tax implications so long as they offer owner finance option to another qualified 2nd generation fisher.

Statement in favor of my proposal to give a temporary capital gains tax waiver to initial recipients is as follows: As I have stated before, two of the biggest hurdles 2nd generation fishers including CQEs face right now is both halibut and sablefish IFQ availability and affordability. My proposal accomplishes both of these objectives by enhancing a more willing seller and buyer arrangement as well as softening the market enough to provide more affordable quota. These objectives are being accomplished on a voluntary basis vs. penalization or further restrictions. Some critics may argue that we are rewarding initial recipients yet again. However, in order to accomplish the objectives of both more affordable and available IFQ, we should support this concept, otherwise we are cutting off our noses despite our faces. I feel this is an opportune time to pull off this proposal given the current administration. Also worth noting, under the current tax plan, tax free exchange of like property, also known as a 1031 exchange can no longer be used in the halibut and sablefish IFQ fisheries, rather they are limited to real estate. In closing, you have to ask yourself what are we trying to accomplish? Provide better opportunities for 2nd generation fishers and their communities as quickly as possible with the least amount of pain or interference or hope for those same opportunities after a long drawn out process of potential lawsuits from further restrictions being placed on fishers who have predominantly been abiding by the regulations laid out before them since the inception of the IFQ program.

4. Encourage owner-financing of QS transfers (J. Bright)

Design a program that encourages QS holders to owner finance sales their QS to current owner/operator fisherman. Eligibility to purchase QS as an owner/operator would be restricted by criteria over and above the current TEC requirement.

Incentivize QS holders to sell their QS through this program:

- No capital gains on the sale (the payments would be taxed as ordinary income when they are received).
- No brokerage fee for IFQ sold through program.
- Allow the current IFQ holder the ability to repossess IFQ if payments are not made.
- Allow a reasonable but fair interest rate (4%?)
- Charge a royalty fee (5, 10, 15, 20%?) for any IFQ sold outside the program.

The intent is for QS sold through this program to be available to vetted applicants at rate that is discounted because of the lack of a royalty fee, brokerage fee, and capital gains taxes. A potential disadvantage is that sales outside of the program would have a higher asking price to cover the royalty fee.

Any QS purchased through this program must be sold through the program, if/when it is sold.

Cost Recovery

1. Request for analysis (J. Farvour)

“Identify excesses in IFQ Cost Recovery tax billings, strategies to achieve program cost savings and stability in fee cost rates.”

Medical Transfers

1. Limit use of medical transfer provision for same ailment (E. Velsko)

The medical lease provision was put in place September 10, 2007 and is explained in detail in section 2.5.2.2.1 of the Twenty-Year Review of the Halibut and Sablefish Individual Fishing Quota Management Program.

“For those otherwise not eligible to use hired masters, the medical lease provision was intended to provide shareholders with a way to harvest their catcher vessel IFQ in times of hardship (215).”

Unfortunately, as industry has seen with the hired master provision the medical transfer provision has become another option or avenue for absentee ownership by an aging quota-share owner pool to continue. Most harvesters agree that there should be some form of medical transfer allowance for those ineligible to use a hired master; however, table and figure 2.5-4 and figure 2.5-5 show the beginning stages of abuse of the current allowance.

“Although in both the halibut and sablefish fisheries medical leases have generally accounted for less than 2% of the overall TACs, in 2015 there was a spike in the percent of the overall halibut TAC that was leased through the medical provision to just less than 3.5%. The 2015 spike in the utilization of the medical lease provision may be associated with the implementation of the 2014 regulation constraining the utilization of hired masters. In other words, some QS holders may be replacing hired master use with medical leasing as the utilization of hired masters becomes constrained. This, along with the continued aging of QS holders, could mean that medical leasing may become more prevalent in the IFQ fisheries in the years to come (216).”

It can be noted from the above that as one loophole tightens or becomes constrained quota owners are quick to find another option to avoid active participation. The medical lease provision only states that *“a shareholder may not use the same medical condition to qualify for the medical lease transfer provision for more than two out of the previous five years (217).”* The unintended result of this loose requirement is that shareholders simply change ailments as needed to align with the requirements of the medical provision and continue to lease their quota shares.

Industry has seen that, *“repetitive use of the provision may indicate that a select group of shareholders in the IFQ fisheries is utilizing the provision as a means of bypassing the owner-on-board provision altogether. Furthermore, some QS holders may be using the medical lease provision for chronic conditions, from which recovery is unlikely (218).”*

The Council should recognize that without further restrictions placed on the medical lease provision we could begin to see this avenue of avoiding the owner-onboard requirement spiral out of control in the future for IFQ shareholders looking to avoid the owner-onboard requirement. **An amendment to the medical lease provision should be put into place that could state that an individual can only transfer quota share rights for the same injury for a period of two years in any five-year period and must get two medical professionals to sign off on his/her injury or illness. The individual would not be eligible to change his/her ailment to continue to lease the shares after the two-year period has been utilized and must have a minimum of two years without a medical transfer to again qualify for a transfer.** If the injury prevails longer than a two-year period the quota share holder can either sell the quota shares or simply not harvest them. These quota shares have been treated as monetary rights when in actuality they are harvesting rights. If an individual is not physically able to harvest the resource as per the original intentions of the IFQ program for the catcher vessel fleet, then the quota shares need to be sold or left in the water.

Transfer Eligibility Requirements

1. Sea-time recency requirement (E. Velsko)

The Council shall consider placing a seatime recency clause on all halibut and sablefish catcher-vessel IFQ holders in the B, C and D vessel classes. Currently, the only requirement to buy or own quota is to qualify for a Transfer Eligibility Certificate (TEC). The requirements to buy or own quota shares can be found on page 30 of the Twenty-Year Review of the Pacific Halibut and Sablefish Individual Fishing Quota Management Program.

“At implementation of the IFQ Program, the Council limited catcher vessel QS acquisition by transfer to non-individual entities that were initial recipients of catcher vessel QS and to IFQ crewmembers. An IFQ crewmember is 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 received an initial allocation of QS in the IFQ fisheries. (30)”

As the IFQ program has evolved, an unforeseen consequence industry has seen is that quota shares have been treated as stock options by some wealthy investors who may have qualified initially or earned the seatime requirement to obtain a Transfer Eligibility Certificate. Currently, there is no recency clause to ensure that active fishermen, not investors are buying quota shares. Industry has seen a rapid explosion of individuals known as “riders” or “walk-ons” who are physically present onboard the vessel and have their quota shares fished for a percentage of the gross profits by another active fisherman’s vessel and crew. More often than not these “riders” do not actively participate in harvesting the fish, opting to let the vessel captains and crews do the work. “Riders” generally do not share in the expenses of the vessel operations including food, fuel and bait, but receive their agreed upon percentages off the gross profits. Often times “riders” receive 60%-75% of the gross profits of a fishing trip in which their quota is harvested.

As a result of this, many once active fishermen have chosen to sell their vessels, keep their quota shares and “ride along” because the profits are higher without the maintenance, crew shares and logistics of owning a vessel. In turn, this raises the price of quota shares because it requires significantly less effort than operating a vessel. “Riders” arrive to the vessel location, get their quota harvested, collect the majority of the profits earned and depart the vessel. Many vessel owners desperate for income generated from this form of leasing even pay plane tickets, hotels and travel expenses just to get “riders” onboard to fish their quota. It is obvious to deduce from this that high quota share costs can be financially manageable for “riders” because there are no expenses associated with the quota other than the initial cost. It is also apparent that many of these “riders” and “walk-ons” are only involved in the fishery for the length of time they are onboard someone else’s vessel harvesting their quota shares. In many instances, this is only 1-3 days per year depending on the fishing.

The Council should place a seatime recency requirement amendment to the IFQ program stating that those individuals who own B, C or D class shares of halibut or sablefish are required to show at least 60 days of active seatime in any commercial fishery in the U.S. for every three years. The Council can decide through analysis how to not unintentionally punish some active fishermen that do harvest their own quota shares, but do not meet the seatime recency clause either because they aren’t involved in any other fisheries or their quota is so small it doesn’t take them much time to harvest. Quota

cuts in recent years have reduced the number of days at sea for most harvesters in the industry. An example of this may be if an individual owned over 50% his/her fishing vessel and harvested his/her own quota shares, the seatime recency requirement could be waived.

Other examples in the marine industry are the USCG requirement of one year of active seatime for every five years to maintain a merchant marine license or credential. The original requirements of the TEC have become outdated and simply qualifying once to purchase quota or being initially allocated quota should not be the only requirement to continue to own quota shares. The Council should understand and realize the need for NMFS to enforce some form of a recency clause in the program to mitigate abuse of ownership rights in regards to “riders” and “walk-ons” mostly uninvolved in the fishery in which they claim ownership.

2. Adjust TEC eligibility requirements (J. Favour)

Options:

- Some amount of recent time in any fishery required to be eligible to purchase quota
- Some amount of recent time in the IFQ fishery required to be eligible to purchase quota

3. Adjust TEC eligibility requirements (S. McManus)

I feel the two biggest hurdles facing entry level 2nd generation fishers are availability of IFQ and the near prohibitive costs of said IFQ. Therefore, my proposal is as follows:

To help correct the continual lack of IFQ purchase availability, I propose tightening up the Transfer of Eligibility Requirements for the halibut and sablefish fisheries by extending the current 150 days and or restricting days at sea qualification to halibut and sablefish fisheries only, or eliminating the days at sea qualification of crewmen who participate in fisheries that result in historically high rates of halibut and sablefish by catch such as trawlers, as opposed to the current 150 days of sea time in any fishery.

Hired Skippers & Owner-Operator Eligibility

1. “Terminate the hired skipper provision” (N. Hayden)

We are trying to address two seriously negative impacts of the IFQ Program. The first is the high cost of quota and increasing rates of hired master use which makes it near impossible for new entrants and small boat fishermen to get and stay in the fishery. Tables 2.5-11 & 2.5-12 on pages 232-233 of the IFQ 20 year review show that use of hired master has increased for all the sable fish areas and all but one halibut area. The rates for halibut went from a high of 30% in 1995 to 58% in 2014, similarly for sablefish they went from a high of 46% in 1995 to 73% in 2014.

To address the first problem, terminate the hired skipper provision.

2. “Phase out hired skipper more quickly than the current timeline dictates” (J. Favour)

Options:

- Sunsetting hired skipper use either as % of hired skipper use
- Simple sunset date (10%/yr over 10 yrs or simple 10 yr sunset)

3. “Sunset the hired master provision” (E. Velsko)

Sunset the hired master provision by choosing a drop-dead date at the Council’s discretion with a transitional period for quota holders using a hired master to get their finances in order. In matter of fairness, quota owners using hired masters shouldn’t need any more than three years to decide on their exit strategies as we’ve seen with survivorship transfer privileges.

The original IFQ program adopted in 1995 took a snap-shot in time for those individuals involved in the fishery at that point in history. The program was not intended or created as a retirement program for initial recipients to take their quota shares to the grave. Industry has seen a drastic increase in quota-share costs across all regulatory areas concurrent with the increase in hired master use. This fishery has seen a gradual shift from a primarily owner-operated catcher-vessel fleet to a fleet of sharecroppers and hired masters that have little or no ownership rights to the fish that they harvest. Section 2.5 of the Twenty-Year Review of the Halibut and Sablefish Individual Fishing Quota Management Program describes the Owner Operator Characteristics of the Fleet on page 202 stating:

“One of the original objectives for the IFQ Program was to ensure that the sablefish and halibut fisheries were predominately owner-operator operations. Specifically, Objective 6 of the original EIS for the IFQ Program stated:

- Objective 6: Assure that those directly involved in the fishery benefit from the IFQ Program by assuring that these two fisheries are dominated by owner/operator operations

In developing the IFQ Program, and through subsequent program amendments, the Council has focused its efforts for an owner-operator fleet on the catcher vessel fleet.”

Furthermore, it is evidenced through tables 2.5-11 and 2.5-12 on pages 232 and 233 of the Twenty Year IFQ Program Review that hired master use has increased exponentially in the catcher-vessel fleet in every regulatory area for both the halibut and sablefish fisheries since the program’s inception in 1995. *“From 1995 to 2014, hired master use increased from 13% to 40% of the TACs in the halibut IFQ fishery and from 13% to 55% of the TACs in the sablefish IFQ fishery (235).”* Tables 2.5-11 and 2.5-12 directly demonstrate that as the fleet aged they increasingly used the hired master provision in an effort to continue to collect profits and not actively be involved in the fishery, thus violating Objective 6 of the original EIS. For example, if an initial recipient was in his/her early 30’s in 1995, he/she could potentially use a hired master for another 30 or more years from now, thus exacerbating the problems we see with high entry costs because there is no incentive to sell until initial recipients are on their death beds. Some of the initial recipients have used a hired master to harvest their quota far longer than they ever actively fished for.

The Council should see the need to address the shortcomings in fulfilling Objective 6 of the original EIS of the program. Sun setting the hired master provision should be an obvious start for a solution to this on-going problem of lack of available quota shares on the open market and high quota share costs. The hired master provision has been manipulated to accommodate an aging quota share owner pool. This provision has been amended on five separate occasions as evidenced on pages 28 and 29 of the Twenty-Year Review since the IFQ program's inception, and each time has skirted around the heart of the problem of ending absentee ownership. This proposal is simply attempting to get the program back on track to align with Objective 6, and to allow the program to function as it was intended to do by employing and supporting those that actively harvest the fish.

Initial recipients who use the hired-master provision have enjoyed an entire generation (23 years) of uninhibited use of such provision and were even allowed to purchase quota shares after initial allocation and use a hired master to harvest these purchased shares until the 2014 regulatory amendment (70 FR 423679) (28) that ended this for quota transferred after February 12, 2010 (31). The Council simply cannot continue to let one generation of fishermen dictate and steer a management program to directly benefit themselves at the expense of the future generations of harvesters. High quota share costs are a direct result of regulations regarding active participation being avoided. The Council should be able to easily recognize that it's time to let our future generations get on a level playing field and remove the handcuffs and barriers that have been in place for far too long. Currently, there is a huge level of inequality in the halibut and sablefish fishery between initial recipients and second-generation fishermen continually compounded by the unfair advantages that the original shareholders have had.

4. Definition of owner-operator eligibility requirement (B. Linville)

Owner-Operator eligibility proposal:

- Currently, eligibility rules require 150 days of commercial fishing experience to qualify an individual to purchase and hold QS.
- Define Owner-Operator and create a new eligibility category that allows those who meet that definition as well as have the 150 days to purchase and hold QS as owner-operators.
- Set a preferred goal so that over time going forward 60% of QS will be owned by those who qualify to be eligible as owner-operators by definition, with the remaining 40% held by those who have their 150 days and are eligible by current rules.
- Modify existing individual QS ownership caps to reflect the preferred 60% Owner-Operator/40% Crewmember split. Eligible Owner-Operators would then be able to purchase QS up to the full individual caps that are currently in place. Eligible Crewmembers would be allowed to purchase and hold only up to 40% of the currently existing individual cap.
- Vessel caps would remain unchanged by this proposal.
- Set a sunset date three years from the date this proposal goes into effect that requires a crew member who holds more than 40% of an individual cap to sell enough QS to meet the new 40% crew member individual cap, or to become a qualified vessel owning owner-operator under the new eligibility definition allowing continued fishing on an individual cap greater than 40%. Require owner-operators to renew eligibility every three years proving that they still meet the definition. Those who do not meet the definition for whatever reason will no longer qualify to hold QS in an amount greater than 40% of an individual cap will no longer be issued annual IFQ permits to fish excess QS.

Suggested Owner-Operator Definitions:

- An individual person owns both the QS and 100% of the vessel that fishes it.
- An LLC organized as single member, 100% owned by an individual person owns the vessel and fishes the owner/operator QS on that vessel.
- A two-member LLC, 50/50 owned by two individual persons, owns a vessel licensed to catch QS. If eligible, either person can own QS, but only one of the two's QS holdings can be defined as Owner-Operator and that person's QS must be fished on that vessel.

Why do this?

- Original objectives #5 and #6 provide specific direction to keep vessel owner/crew relationships unchanged and to maintain the owner-operator dominance of operations existing at that time.
- The IFQ Program as it is currently regulated has been an abject failure at meeting these two objectives. Original Objectives 3,4,7, & 8 have also been ill served by the IFQ Program as currently regulated.
- Owner-Onboard does not equate to Owner-Operator. Second generation QS holders have no requirement to own a commercial fishing vessel. Many never have and never will.
- Allowing an individual who may have never owned a vessel in their lives and has no idea what it takes to operate one, to control the vessel's right to fish is wrong and in direct conflict with original objective #6.
- Vessel owners and crews are both destroyed by a system where up to 75% of the landing revenue is raked off the top and direct deposited into the QS holders bank account leaving all expenses to be paid by the remaining funds if there is enough left to do so.
- With no vessel ownership required, control of QS becomes a money game and that alone. Coastal Alaskan fishermen will never be able to compete at that game as well as well-to-do ex-fishermen retirees, their heirs, and others who have left fishing behind for better pastures but still get to control up to a full individual cap of QS, ride along in their spare time, and rake off the lion's share of the revenue.
- The term "Owner Onboard" exists nowhere in the original objectives because, at that time, the fleet almost entirely consisted of owner-operators.
- The term Owner Onboard appeared in the effort to reduce leasing abuses stemming from the Hired Skipper rule (see the March 2011, Hired Skipper Review reference below). It is now being used to spread those same abuses to the second-generation QS holders.
- Owner Onboard is a term manufactured to allow all manner of abuse. It is the root cause of current QS lack of availability, high prices, and QS leaving Alaska's coastal towns for elsewhere.
- Allowing a non-vessel owning individual "Owner-Onboard" to own a full cap of QS directly conflicts with original objective #5. Historically, prior to the IFQ Program, the crew share split was 40% of the landing revenue after expenses. Hence, to honor original objective #5, a non-vessel owning crewmember's individual cap should be reduced to 40%.
- The only way Original Objective #6 (maintain the owner-operator dominance of the fleet) will ever be achieved is to define owner-operator and put rules favoring those who qualify into regulation. This has been talked about for decades but never done before.

REFERENCES

Original Objectives of the IFQ Program:

- 3) Broadly distribute quota share to prevent excessively large quota share from being given to some persons.
- 4) Maintain the diversity in the fleet with respect to vessel categories.
- 5) Maintain the existing business relationships among vessel owners, crews, and processors.
- 6) Assure that those directly involved in the fishery benefit from the IFQ Program by assuring that these two fisheries are dominated by owner/operator operations.
- 7) Limit the concentration of quota share ownership and IFQ usage that will occur over time.
- 8) Limit the adjustment cost to current participants including Alaskan coastal communities.

Twenty-Year Review:

1.2.4.4.2 Owner-On-Board Mandate and Hired Master Use Privilege, p. 26

In developing the Alaska halibut and sablefish IFQ Program the Council was concerned with the potential for the emergence of a class of absentee catcher vessel shareholders. The Council stated that absentee QS holder would be in opposition to its intent that benefits from the fishery flow to those directly involved in it. Therefore, the Council included an owner-on-board requirement for catcher vessel QS holders in the IFQ Program. The intent of the owner-on-board requirement was to provide for a transition of the catcher vessel fleet to becoming fully owner-operated.

2.5.3.2 Summary, p. 235

Relevant literature indicates that catch share and limited entry programs can create formidable incentives for privilege holders to lease their privileges, generating income in absentia and avoiding the overall risks of physically participating in the fisheries (Szymkowiak and Himes-Cornell, 2016). In the IFQ fisheries, even as QS is transferred to second-generation shareholders who are mandated to be on-board during the harvest of their IFQ, there is anecdotal information that some of these second-generation shareholders are coming on board as “walk-ons” or “ride-ons”, who do not participate in the actual fishing activity (Van der Voo, 2013; Szymkowiak and Himes-Cornell, 2015).

2.6.2 Entry into the Post IFQ Fisheries, p. 238

When implementing the IFQ Program, the Council wanted to provide for the dominance of owner/operator operations in the fisheries. Therefore, they restricted the acquisition of catcher vessel QS to initial catcher vessel QS recipients and individuals that could demonstrate 150 days of experience as part of a harvesting crew in any U.S. commercial fishery. In order to be eligible to receive catcher vessel QS by transfer in the IFQ fisheries, these new entrant individuals must possess a transfer eligibility certificate (TEC), which is issued by NMFS-RAM. Beginning on December 1, 2014, the acquisition of catcher vessel QS is limited to individuals only (79 FR 43679). The acquisition of catcher-processor (Class A) shares is not restricted by entity type, (i.e. individuals versus corporate entities), except that the entity must be able to demonstrate U.S. citizenship.

p. 239

In the post-IFQ halibut and sablefish fisheries, the chief limiting factor for entry has become QS acquisition. Herein, entry is understood to mean the acquisition of QS by non-initial recipients of QS. 51 Arguably to be an independent operator, a participant in the IFQ fisheries needs QS, a vessel, and a Federal Fisheries Permit. However, the direct investment to enter the IFQ fisheries is purchase of halibut and/or sablefish QS. QS holders can bring their IFQ onto other's vessels, and Section 2.4.1 explores the increasing utilization of these kinds of relationships in the IFQ fisheries.

2.6.2.3 Leasing, Hired Master Use, and Entry, p. 257

The utilization of hired masters and leasing provisions in the IFQ fisheries have allowed some QS holders to retain catcher vessel QS beyond the point at which they are able or willing to fish their IFQ themselves. Relative to an IFQ Program in which hired master use and/or leasing was not allowed, these privileges have likely constrained the amount of catcher vessel QS available on the market, potentially increased their value, and provided that there is a time lag in the transition of these QS to new entrants. According holders to retain catcher vessel QS beyond the point at which they are able or willing to fish their IFQ themselves. Relative to an IFQ Program in which hired master use and/or leasing was not allowed, these privileges have likely constrained the amount of catcher vessel QS available on the market, potentially increased their value, and provided that there is a time lag in the transition of these QS to new entrants. According to economic theory, placing restrictions such as prohibitions on hired master use and leasing on an asset constrains the value of the asset. Thus, not including these restrictions provides that the value of the QS is greater.

Hired Skipper IFQ – Public Review, March 2011

3. Purpose and Need for this Action, p. 6

The Council received a proposal during its 2009 call for IFQ proposals that requested a sunset date on CV QS transfers for the use of hired skippers. The IFQ Implementation Team recommended that the Council consider “sunsetting” all hired skipper provisions for halibut and sablefish CV QS transferred by individual initial recipients (excluding leased (A) shares). In the course of reviewing the proposal the Council and its committees received public testimony that suggested that some individual initial recipients who used to own and operate their fishing vessels have since retired from the fishery (i.e., sold their vessels) and now hire skippers to harvest their IFQs, instead of transferring (i.e., selling) their QS as was intended by the Council. Others go on board the vessel as if they were crew (to legally fish their IFQs, but do not actively participate in fishing. The Council also heard anecdotal evidence that some initial recipients continue to transact “paper” ownership arrangements with vessel owners to give the appearance of ownership in a vessel for the purpose of using a hired skipper on that vessel, despite previous regulatory actions implemented and under review to curtail such practices.

The Council has forwarded four regulatory amendments to the Secretary to tighten strengthen requirements and better meet Council objectives for the “hired skipper” privilege for CV QS. Each has proven insufficient for enforcing Council intent for an owner-operator fleet, with a limited exception for initial recipients to hire a skipper to fish the former's IFQs. Recent recommendations for increased documentation requirements for hiring a skipper by individual and non-individual initial recipients of halibut or sablefish QS/IFQ have failed to curtail hired skipper activities as intended by the Council.

The Council has been frustrated by continued attempts by initial recipients to circumvent the intent of the IFQ program, that is, to transition towards an owner-operated fleet. The requirement for CV QS holders to be onboard the vessel during harvest and offloading of these IFQ species constitutes a key element of the halibut and sablefish IFQ Program. This requirement was intended to ensure that CV QS would continue to be held by professional fishermen, instead of absentee owners or investment speculators.

The Council provided an exception to this owner-on-board requirement for persons who received initial allocations of CV QS. This exception allows initial recipients of CV QS, who had operated their fishing business using hired masters before the IFQ Program was implemented, to retain the flexibility of using hired masters under the IFQ Program. This exception may be exercised only by QS holders who can demonstrate ownership of the vessel used by the hired master for IFQ fishing. That requirement is intended to require a QS holder to hire a skipper to fish the IFQs on the QS holder's vessel and to prevent leasing of those IFQs to the owner or skipper of another vessel. Further, by limiting this exception to initial recipients, the exception to the owner-on-board requirement will expire with the eventual transfer of all QS from initial recipients (except as provided under the surviving heir provisions). However, attrition of non-individual QS holders has been slower than some had anticipated, and as the population of individual initial QS recipients ages, it has used the hired skipper privilege to continue to hold QS.

The Council remains concerned about alleged continued abuses of the exception. In February 2011 the Council reviewed a summary of enforcement issues related to leasing of IFQs, which is not allowed under the program, but is not specifically prohibited in federal regulations. The Council requested that NMFS provide a discussion paper after certain enforcement cases are adjudicated, possibly as early as October 2011.

The Council never intended that the hired skipper privilege be used after retirement from fishing, as some individual initial recipients have testified has become their business model.

The Council intended that formerly active QS holders would transfer (i.e., sell) their QS when they chose to or could no longer fish their own QS holdings.

5. Owner/Operator Quota Share Program (B. Linville)

1. Owner/Operator definition: (a) An individual person operating as a sole proprietor and being the only documented owner of the fishing vessel upon which that person's owner/operator QS will be fished, (b) A sole member LLC owns the vessel, with one individual person as full owner of the LLC, who also owns the owner/operator QS fished on the vessel, and operates the vessel while it is fished, or (c) An LLC with no more than two individual person members, each person owning exactly 50 percent of the LLC, both persons allowed to own QS provided that each person is on board while that person's owner/operator QS is being fished.
2. Vessel ownership must be verified every three years or at each ownership change on the vessel's documents for continued issuance owner/operator annual IFQ landing permits. Should the person holding owner/operator QS no longer qualify as a vessel owner, no annual IFQ landing permit will be issued until owner/operator qualification is reinstated.
3. As was done with the creation of RQE, form a new entity entitled "Commercial Vessel Owner/Operator Quota Entity." Enable this entity to operate as necessary to receive units of halibut QS, compile them into blocks as directed, sell by sealed bid to those who meet the definition of Owner/Operator, and finally to distribute the funds received back to the quota holders from whence they came on a per unit transferred basis.

4. Beginning in year one of the program and for 15 years thereafter, for every landing made by a non-Owner/Operator, one percent of those quota share units corresponding to the IFQ's landed are placed in the Commercial Vessel Owner Operator Quota Entity.
5. All units transferred under the program each year will then be immediately compiled into 2000, 5000 lbs., or smaller/larger blocks as directed to meet Owner/Operator demand.
6. All newly created blocks are put up for sale annually by sealed bid auction, but only those persons having met the definition of Owner/Operator are eligible to bid.
7. Funds received will be pooled, calculated on per quota share unit basis, and returned to the QS holders from which each unit came that year.
8. Other than for existing medical and surviving spouse lease provisions, Owner Operator quota can only be fished by an Owner/Operator as defined in #1 above.
9. Once quota share blocks are compiled and sold by the Commercial Vessel Owner/Operator Quota Entity, they cannot go back into the non-Owner/Operator pool. Owner/Operator quota share can only be transferred to other Owner Operators who meet the definition above.

The whole idea here is to create a market for QS fishing rights where the value of the right is tied to the value of the fish. This change is needed because the IFQ program as originally created does not prevent a non-fishing individual or entity from sitting on the beach, or in the stateroom, while collecting the lion's share of the revenue right off the top for the landings. Persons haven't actually fished for decades, some of whom have never owned a vessel in their lives, are currently allowed to own more than an entire vessel cap of QS. Second, third, fourth and so on generation transfers don't fix the problem because Owner-On Board means "ride along" which means the rest of the boat and crew are left to starve. An investment/retirement incentive has been put into quota ownership which is in direct conflict with Objective #6 as laid out during the creation of the IFQ program and which has made quota unavailable for purchase by young new entrants. The existing rules have caused coastal Alaskan communities to lose the right to fish halibut which is in direct conflict with National Standard #8.

The "second generation" is not a pretty sight under current rules as I have outlined in detail previously. It will not in its current form bring anywhere near enough new entrants, especially owner/operators, into the QS halibut/sablefish fisheries to match those who will retire for good over the next ten years. The trajectory of this program has been all along and remains on a path to produce a fishery in which none of the fishing rights are owned by anyone with a boat. It's already just about there where we come from.

The IFQ program as it is currently managed has caused real economic harm to coastal Alaska towns and villages. Rights to fish halibut and sablefish, when rarely available at all, are bid up by those who don't fish and may have not actually fished as crew for decades, who don't own vessels and may not have ever owned a fishing vessel in their lives, to levels which will never make financial sense to a owner/operator new entrant. It would be hard to support any other conclusion using data from the last ten years. The longer this condition is allowed to stand, the worse it is going to get. A whole generation of young coastal residents are being left behind by this IFQ program. Politically, this issue must be addressed for its long term sustainability to be assured.

We, on the IFQ Committee, are tasked to propose changes at our meeting on February 5. There will be those who have benefitted hugely from this program and deny that a problem exists or that a solution can be found. But I think the majority will agree that the IFQ Program has not served its either its original objectives or the national standards very well and is not working for young new entrants. We should act now to make the changes needed while we can do so in a very gradual manner with the least pain inflicted on anybody.

I have submitted two proposals which would, if implemented, increase the percentage of QS fished by owner/operators over time. Proposal #1 would no longer allow a person who doesn't own a boat to own

an entire individual QS cap, more than a full vessel cap, as some currently do. No QS would be needed to transfer at all should that person go ahead and acquire a boat to fish it. But if that is not done, 60% of that QS would need to transfer, thereby creating availability for new entrants as well as an advantage for owner/operators. Proposal #2 would directly assign one percent of leased QS for qualified owner/operators to buy each year for 15 years creating availability for them to get in, or stay in. An entity would need to be formed to compile the blocks, sell them, and then pay for each QS unit that made up the blocks sold. Owner/operator fished QS would steadily increase at a slow rate under this proposal. Although QS holders leasing their IFQs out would be losing QS at a one percent per year rate, the loss would be paid for, and capped at 15%,

If we can't find a way to support the goal of an owner/operator fleet in some manner, it will continue to dwindle. I support any method of doing that but prefer to address the issue outright and write owner/operator into the rule book. I welcome and questions, suggestions, changes, or different proposals with this goal in mind.

Access to Quota

1. Creation of community-based recruitment quota (N. Hayden)

We are trying to address two seriously negative impacts of the IFQ Program. The second is the reduced and near elimination of fishing rights in small and rural coastal communities, Table 2.7.1 on pages 305-307 of the IFQ review shows a 31% reduction of halibut and 53% reduction of sablefish held by residents of CQE communities with the ones on Kodiak experiencing a loss of 70% of halibut and 100% of sablefish. I think we should consider the following modifications to the program with this in mind.

To address the second problem:

- Allow for the creation of a community-based recruitment quota managed by a regional fisheries quota organization. It can be modeled on the portion of the RQE that allows it to hold, manage, and distribute quota on an annual basis to CQE's and other coastal hub fishing towns like Kodiak, Cordova, and Seward.

Currently there are 42 communities that are eligible to participate in the CQE Program, of those only 6 have formed a CQE and only 4 of those have been able to purchase quota. The idea behind my proposal is to exercise the ability to collect royalties from those existing quota holders that utilize the hired master provision, in the form of quota, and make it available to CQE communities and the owner/operator fleet.

The portion of quota that is designated to the CQE communities would be held by a "regional fisheries quota organization" that would develop a system to make quota available to those CQE's that are established and can demonstrate that they have the capacity to participate in the program. The purpose of the additional organization is to provide a way that all community quota is fully utilized by active communities, rather than just divided equally among all 42 eligible communities.

Why do we need to fund the CQE's? It is necessary to mitigate the disproportionate loss to small rural communities, which has been documented throughout the course of the program and is clearly illustrated in the 20 – year review. Our communities are at risk of losing an entire generation of halibut fishermen which leads to loss of generational transfer of the knowledge of the fishery.

Where does the quota come from:

- Implement a hired master fee of 2-3% of all quota caught by a hired master (while provision exists).
- Bycatch reduction savings for trawl fleet.
- Create trigger for reallocation of quota when halibut and sablefish stocks rebound and begin to exceed historic levels.

2. Quota pool for new entrants and deckhands (J. Farvour)

Based on the Maine lobster apprenticeship program and NOAA's Catch Share Policy. The intent of this proposal is to create explicit entry level opportunities with a path to ownership while maintaining the core IFQ structure.

The Quota Pool concept would consist of limited amount of QS for use, for a limited amount of time, available for new entrant owner operators (OO) and deckhands. Use of QS pool would be confined to quantifiable and transparent criteria based on measurable goals set by the Program objectives.

- Define potential cap on merit QS pool similar to RQE limits.
- Establish guidelines on how to allocate Merit QS if more users qualify than QS available
- Intent would be to provide a path to ownership and participant remaining an OO.
- Build in an apprentice or mentorship program

Possible qualifying criteria could include:

- Must have a TEC
- QS use could be in the range of 500-3000 lbs/yr with stair stepping up or down based on Quota Pool Program objectives and participants performance
- Limit QS use for a limited amount of time (1-5 years) based on Program criteria
- For use only on fully OO vessels
- Recency of participation in the fishery
- No, or very limited, quota ownership
- Owner operator or deck hand on a fully OO vessel
- Number and seriousness of fish and wildlife violations
- Age and income threshold

A certain % of the ex-vessel (as low as possible) from fishing the Quota Pool could go into a "bank" that would be solely and strictly to help with participants' purchase of quota and administrative costs. If after participating in the Quota Pool the participant decides that they do not wish to purchase quota then no harm done, the % of the ex-vessel that was acquired from that participants participation in the Pool that went in to the "bank" would stay in the pool program.

- Define potential cap on merit QS pool similar to RQE limits.
- Establish guidelines on how to allocate Merit QS if more users qualify than QS available
 - Recency of participation in the Fishery (3-5 years, 100 days?) to prove up
 - No or very limited quota ownership
 - Owner operator or deck hand on a fully OO vessel
 - Number and seriousness of fish and wildlife violations
 - Age and income threshold

Benefits:

- Would address shortcomings of several IFQ program goals and objectives:
 1. *Maintain the diversity in the fleet with respect to vessel categories,*
 2. *Maintain the existing business relationships among vessel owners, crews, and processors,*
 3. *Assure that those directly involved in the fishery benefit from the IFQ Program by assuring that these two fisheries are dominated by owner/operator operations.*
 4. *Limit the concentration of quota share ownership and IFQ usage that will occur over time.*
 5. *Limit the adjustment cost to current participants including Alaskan coastal communities.*
- Helps new entrants and possibly some existing participants
- Would anticipate increased participation, helps address consolidation

Challenges:

- How to facilitate the transfer of quota into the Quota Pool. Possibilities to seed the Quota Pool include: a royalty on transfers of initial issues, initial allocation transfers; look at capital gains tax deference for QS holders wishing to sell to the pool; legacy donations; use of IFQ cost recovery FSD funds.

3. CQE Block limit (D. Fraser)

Background:

ACDC is the CQE entity for Adak. Our CQE plan embodies a number of goals.

- 1- Maintain and increase landings of halibut and sablefish in Adak.
- 2- Make additional quota available by lease to vessels operating out of Adak, and enhance the development of a resident fleet.
- 3- Enhance the ability of local residents to obtain jobs on fishing vessels.
- 4- Provide a pathway to ownership of QS by local residents.

To achieve these goals the CQE has purchased QS which it makes available to vessel operators and local residents using a point system to distribute the IFQ. (During the 1st 5 years of the program non-resident vessel operators may be awarded IFQ, but the point system has prioritized resident vessel operators.)

Long term ACDC wants to help local residents to get the 150 days of sea time that will allow them to purchase QS. Once they are qualified to purchase QS, ACDC would provide financing to help them acquire quota.

In 4B the CQE is limited to owning 15% of the area 4B QS (which is 1,392,716 QS units or 136,800 lbs. in 2017). It is also limited to holding ten blocks. The Adak CQE currently holds 69,271 lbs. which is roughly half of the cap.

All the blocked quota is in blocks less than 8000 lbs. So even if the Adak CQE only acquired additional blocks between 4000 and 8000 lbs., the most it could buy would be another 16,000 to 32,000 lbs., plus whatever unblocked it might eventually buy.

There are restrictions on the ability to sell blocks. It may do so to achieve program objectives (including replacing a small block with a larger block.)

The Issue:

In order to fulfill the objective of qualifying and assisting residents to end up owning quota, the Adak CQE is interested in purchasing some small blocks to hold until such time as residents are able to buy them. The Adak CQE already owns 6 blocked blocks which add up to about 27,000 lbs.

There are 58 blocks less than 3000 lbs., 16 blocks between 3000 and 4000 lbs., and 32 blocks between 4000 and 8500 lbs. There are 35 units of unblocked 4B QS.

The ten block limit constrains the Adak CQE's ability to get close to the 15% cap. It is also a deterrent to purchasing small blocks which come on the market more frequently than the larger blocks.

Proposal

ACDC proposes dropping the 4B CQE block limit or exempting blocks under a certain size (options: 2000, 3000 or 4000 lbs.) from the 10-block limit.

QS Ownership and Vessel Use Caps

1. Divisibility of QS blocks and adjustments to block holdings (J. Farvour)

Options:

- Allow blocks to be divisible at point of sale (create more small blocks).
 - Resulting blocks could retain blocked status except for some additional unblocking and sweep up provision
- Reduce the number of halibut blocks an individual can hold in an area from 3 to 2

2. Establish area-specific vessel QS caps (J. Farvour)

Options:

- Overall or by area
- 10% or 20% reduction in overall caps outside of SE
- Area specific caps of 0.5%, 1%, 2%, 3%, 5%
 - Would likely contribute significantly to address the continued trend of consolidation
 - Ways around vessel caps include owning more than one vessel

3. Establish individual “usage” QS limits (J. Farvour)

Options:

- Overall or by area
- 10% or 20% reduction in overall caps outside of SE
- Area-specific caps of 0.5%, 1%, 2%, 3%, 5%