

MEMORANDUM

TO: Council and AP Members
FROM:  for
Chris Oliver
Executive Director

ESTIMATED TIME
4 HOURS
(all C-1 items)

DATE: February 1, 2011

SUBJECT: Halibut/Sablefish IFQ Program

ACTION REQUIRED

(b) Final action on CQE Area 3A purchase of Area 3A D category halibut quota

BACKGROUND

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. 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

¹ IFQ 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).

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

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.
- c. Area 3A CQEs may purchase any size block of "D" category quota share.

The Council reviewed the initial review draft analysis in December 2010 and approved a purpose and need statement and released the analysis for public review with several revisions. Upon review of the data indicating that the majority of D category QS in Area 3A is in small blocks (less than or equal to the sweep-up limit of 46,520 QS units), the Council added a provision to Alternative 2 that would allow CQEs to purchase any size block of D category QS in Area 3A. CQEs would continue to be limited to purchasing only larger blocks of B and C category QS. The Council also requested more detailed data on the block size of QS holdings by residents of the fourteen Area 3A communities eligible for the CQE Program, as well as further discussion of whether CQEs would be expected to have a financial advantage in purchasing catcher vessel QS. The December Council motion is attached as **Item C-1(b)(1)**, and the executive summary is attached as **Item C-1(b)(2)**.

The analysis was sent to you on January 8, and final action is scheduled for this February meeting.