

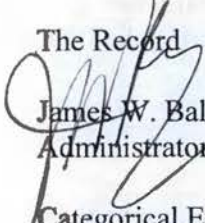


**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

July 16, 2010

MEMORANDUM FOR: The Record

FROM:  James W. Balsiger, Ph.D.
Administrator, Alaska Region

SUBJECT: Categorical Exclusion for the Proposed Rule Amending
Regulations to Revoke Inactive Halibut and Sablefish
Quota Share, RIN 0648-AX91

NAO 216-6, Environmental Review Procedures, requires all proposed agency actions to be reviewed with respect to potential impacts on the human environment. This memorandum summarizes the determination that a proposed rule amending the regulations to revoke inactive quota share (QS) from the Individual Fishing Quota (IFQ) Program in the Bering Sea, Aleutian Islands, and Gulf of Alaska for Pacific Halibut and Sablefish Fixed-Gear Commercial Fishery (IFQ Program), qualifies to be categorically excluded from further National Environmental Policy Act (NEPA) review.

Description of the Action

The proposed action would amend the existing commercial fishing regulations at 50 CFR 679 in response to Pacific halibut and sablefish fishermen inquiries about the administrative cost to maintain inactive QS and their interest in accessing all QS. The proposed change is intended to enhance the management provisions of halibut and sablefish in the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and the Northern Pacific Halibut Act of 1982 (Halibut Act). Current regulations do not clearly provide for the voluntary removal of QS other than through transfer which has been a viable option since QS was initially issued in 1995. This proposed amendment would add a provision to revoke inactive QS unless the QS holder notifies NMFS in writing, within 60 days of the agency's Notice of Determination of Quota Share Inactivity, that they choose to continue to retain their inactive QS. Inactive QS are initially allocated QS that have never been used to harvest halibut or sablefish and have never been transferred into or out of an IFQ permit holder's account. A permit holder that responds to NMFS that they want to keep their inactive QS would be able to retain their QS and initial recipient benefits and receive the associated allocation annually. A permit holder who has had all of their QS revoked would retain their initial recipient



status and all newly acquired QS would have the same status as assigned that IFQ permit holder. Quota share that is not activated through this process would be revoked and the associated IFQ would not be allocated. Harvests of halibut foregone from revoked QS would accrue to the total allowable catch and each active QS holder would have access to an amount of halibut and sablefish approximately proportional to their IFQ allocation. The proposed regulatory revision is based on the recommendation of the North Pacific Fishery Management Council (Council) in June 2006 and reaffirmed in February of 2009. The proposed change to the halibut and sablefish IFQ regulations would increase yield from the fisheries and results in more efficient structure of the program and use of these species resources by reducing cost of administering the IFQ program and improving operational flexibility of fishery participants.

Background

The Council and NMFS developed the IFQ Program to reduce fishing capacity that had increased during years of management as an open access fishery. The IFQ Program limits access to the Pacific halibut and sablefish fisheries to those persons permitted by vessel category to hold QS specific to management area. Quota share equates to individual harvesting privileges given effect on an annual basis through the issuance of IFQ permits. An annual IFQ permit authorizes the permit holder to harvest a specified amount of an IFQ species in a regulatory area. The specific amount (in pounds) is determined by the number of QS units held for that species, the total number of QS units issued for that species in a specific regulatory area, and the total amount of the species allocated for IFQ fisheries in a particular year.

Management of the IFQ Program accounts for the social and economic character of the commercial, fixed-gear fisheries that many coastal communities in Alaska rely on as a source of revenue. IFQ permit holders are allocated a certain amount or QS of the total amount harvestable at the beginning of fishing season and then they choose where and when to fish, typically to maximize the value of the season's harvest. The IFQ Program enables IFQ permit holders to choose how much and what type of investment to make to harvest their halibut and sablefish QS.

The Council intended the features of the IFQ Program to support the conservation and management objectives of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851)(Magnuson-Stevens Act) and the Halibut Act while retaining the character and distribution of the fishing fleets as much as possible. Over time, the needs of the fishermen have changed with the evolution of the halibut and sablefish IFQ fisheries and some of the original provisions of the IFQ Program features are no longer applicable. The initial issue of IFQ to all recorded harvesters resulted in some very small IFQ holdings because the basis amount of halibut or sablefish historically harvested was negligible, in some cases summing to fewer pounds than a whole fish when converted to QS. As a result, IFQ exists that has never been used to fish halibut and sablefish QS. Not all of these inactive QS are tiny but all have been demonstrated to be of little use to the persons holding the QS and associated IFQ. The cumulative effect of inactive QS is

to preempt harvest of the entire total allowable catch by active IFQ halibut and sablefish fishermen.

Existing regulations allow a number of IFQ accounts with inactive QS to remain in NMFS record keeping and reporting database. Administrative tasks to maintain the data and report on the IFQ permit holders and their associated inactive QS are completed monthly and annually. Inactive and active participants in the IFQ fishery are burdened with information on inactive QS that is little or no interest because the QS lacks utility and financial benefit. The management of the IFQ Program accommodates inactive QS at a cost to the active IFQ fishery participants that incur a fee with every landed catch to help pay for the administration and management of the IFQ Program.

Effects of the Action

If approved, the proposed rule would amend regulations in 50 CFR 679 to revoke QS with an inactive status from commercial fixed-gear halibut and sablefish IFQ permit holders.

The proposed action would provide opportunity for QS not currently used to fish halibut and sablefish IFQ to contribute to the total harvest of IFQ and more closely attain optimum yield of sablefish and the fishery exploitation yield of halibut. Once revoked, inactive QS would no longer exist and could not be allocated or redistributed to the halibut and sablefish QS pool. The halibut and sablefish foregone from the inactive QS and associated unallocated IFQ would accrue to the future total allowable catch and be available to halibut and sablefish fishermen for harvest in an amount approximately proportional to each active IFQ permit holders allocation. As proposed this action would increase yield of IFQ QS and promulgate regulation of the groundfish FMPs consistent with National Standard 1 of the Magnuson-Stevens Act.

Revoking inactive halibut and sablefish QS would obviate any need for data collection, record keeping, and reporting of inactive QS and associated IFQ. The administrative tasks for managing inactive QS would be eliminated and the tasks to manage QS retained by request would be integrated with those for active QS. This consolidation coupled with less information would streamline the structure of the IFQ Program. Improving access to all available QS would also increase the flexibility of fishermen to invest and prosecute their fishing operations to maximize their goals for participating in the IFQ halibut and IFQ sablefish fisheries. As a result of the proposed action, NMFS would promote efficient use of program and participant resources in keeping with Magnuson-Stevens National Standard 5.

Regulations implementing NEPA at 40 CFR 1500-1508, as well as procedures in NAO 216-6, proscribe the NEPA documents that federal agencies must prepare as part of their environmental review of proposed actions that may affect the human environment. These include environmental impact statements (EIS), environmental assessments, and categorical exclusions.

The salient factors contributing to the conclusion by the Responsible Project Manager that a categorical exclusion is appropriate for this proposed action are:

1. The principal effect of the proposed action would be to modify the current structure of the IFQ Program to address a unique problem in the halibut and sablefish fisheries as identified by the Council. There are no potential environmental effects associated with revoking inactive QS or retaining QS by request. The anticipated environmental effects associated with elimination of the small number of inactive QS are expected to be minimal. Therefore, the proposed management changes to the commercial fixed-gear halibut and sablefish fisheries and the implementing regulations are not anticipated to have significant impacts on the human environment due to the limited context of the actions and to the lack of severity of any potential impacts (NAO 216-6, Sections 6.01 and 6.02).
2. The potential impacts of the proposed action were previously analyzed in a NEPA analysis with a finding of no significant impacts on the human environment. An EIS was prepared in December 1992 for the final rule implementing the halibut and sablefish IFQ and CDQ programs. The scope of the EIS includes the potential environmental impacts of an action that is similar to the one proposed in this rule.
3. The potential impacts of a similar proposed action have also been discussed for Commercial Grouper and Tilefish Fisheries in the Environmental Impact Statement for Amendment 29 to the Reef Fish Fishery Management Plan for the Gulf of Mexico (May 8, 2009 Amendment 29 Reef Fish Fishery Management Plan, Effort Management in the Commercial Grouper and Tilefish Fisheries, Reducing Overcapacity, Gulf of Mexico).

Categorical Exclusion

This action would not result in any changes to the human environment. As defined in Sections 505(b) of NAO 216-6, the proposed work is similar to prior NEPA analyses for similar actions, which demonstrated that such actions would not have significant impacts on the quality of the human environment and for which any cumulative effects are negligible. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

CC: AKR NEPA Coordinator
NOAA NEPA Coordinator