

[Federal Register: September 29, 1994]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration
50 CFR Part 676

[Docket No. 940845-4245; I.D. 081794A] RIN 0648-AG98

Limited Access Management of Federal Fisheries In and Off of Alaska AGENCY:
National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric
Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement a regulatory amendment affecting the Pacific halibut and sablefish fisheries in and off the State of Alaska (Alaska or State). This action explains the methodology used to calculate Community Development Quota (CDQ) compensation for the Pacific halibut and sablefish individual fishing quota (IFQ) program and would codify a systematic procedure for CDQ compensation.

DATES: Comments must be received no later than November 14, 1994.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 W. 9th, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of this proposed rule and the Regulatory Impact Review (RIR) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The Pacific halibut and sablefish CDQ program was designed to assist in the revitalization of rural communities in Western Alaska by providing those communities with access to fishery resources within their geographical proximity. The CDQ program was developed under the authority, and is consistent with the management objectives, of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and the Northern Pacific Halibut Act (Halibut Act).

CDQ Compensation Formula

The CDQ compensation formula would compensate persons for reductions in the amount of Pacific halibut and sablefish available for harvest with IFQ in CDQ areas resulting from allocations of those fishery resources to the CDQ program. Compensated persons would be those who are initially issued quota share (QS) in CDQ areas. This one-time compensation adjustment would be in the form of QS in each of the non-CDQ areas.

The CDQ compensation formula would affect all persons who are initially issued QS, including those persons who did not participate historically in the Pacific halibut or sablefish fisheries in CDQ areas. The North Pacific Fishery Management Council (Council) intended that all persons who are initially issued QS share the burden of compensating persons for reductions in the amount of Pacific halibut and sablefish available for harvest with IFQ in CDQ areas. This would be accomplished by distributing the compensation burden among all persons who would be initially issued QS by reducing their harvest privilege by a fixed percentage. Even persons who receive compensation would share the burden.

The amount of compensation QS a person receives would equal the reduction in the QS amount of harvestable fishery resources that person would receive in

a CDQ area, minus the fixed percentage reduction shared by all persons who would be initially issued QS. Persons eligible for compensation would receive a portion of the total amount of compensation QS in each non-CDQ area. The compensation QS in each non-CDQ area would be proportional to the size of the QS pool of that area. For example, a person who would be eligible for compensation QS for halibut would receive the greatest amount of compensation QS in area 3A, which has the largest QS pool, and the least amount in area 4A, which has the smallest QS pool.

CDQ Compensation Formula Methodology

The following describes how the CDQ compensation formula operates. All total allowable catch (TAC) amounts are the TAC average for the years 1988-1994. First, (1) add the CDQ, based on the TAC average, from all management areas for that species to calculate total CDQ for that species, (2) add the TAC from all management areas for that species to calculate total TAC for that species, and (3) divide the total CDQ by the total TAC. This provides the proportion (percentage) of the total TAC going to the CDQ program for each species.

Second, multiply the proportion (percentage) of the total TAC going to the CDQ program (calculated above) by the TAC for each management area. This provides the total pounds of fish that will be used for CDQ compensation in that management area.

Third, divide the original QS (quota share pool) for each management area by the part of the TAC that will not be used for compensation in that area. This provides the QS per pound of non-compensating TAC.

Fourth, multiply the part of the TAC in each area that will be used for compensation by the QS per pound of noncompensating TAC for that area. This provides the QS created and used for compensation in that area.

Fifth, for each person with QS in a CDQ area, (1) total the IFQ lost by that person to CDQ in all areas and then (2) multiply that total by the quantity one minus the sum of the proportion of the total TAC going to the CDQ program for each species. This provides the pounds used to determine the amount of compensation QS a person will receive for that species.

Sixth, sum the pounds used to determine the amount of compensation QS each person will receive for that species. This provides the total pounds used to determine the compensation QS for all persons for that species.

Seventh, divide the pounds used to determine the amount of compensation QS each person will receive for a species (from step 5) by the total pounds used to determine the compensation QS for all persons for a species (from step 6). This provides the proportion of new QS in each area that a person should receive as compensation.

Eighth, and finally, multiply the proportion of the new QS in each area that the person should receive as compensation by the new QS available for compensation in each area (calculated in step 4). This provides the QS a person would receive as compensation in each area.

Example

If a person was initially issued 5,000 QS for Pacific halibut in regulatory Area 4E, that person would have all 5,000 QS transferred into CDQ compensation QS. This is because 100 percent of the TAC of Pacific halibut in regulatory Area 4E is allocated to the CDQ program. To calculate how much CDQ compensation QS the person would receive in one of the non-CDQ areas (Area 2C is used in this example):

1. Add CDQ from all areas for Pacific halibut (based on the 1988- 1994 TAC average). The resulting sum is 1,038,571 lb (471.09 mt).
2. Add the TAC from all areas for Pacific halibut (based on the 1988-1994

average). The resulting sum is 50,581,429 lb (22,943.35 mt).

3. Divide the resulting sum from step 1 by the resulting sum in step 2. The resulting quotient is 0.0205 (or 2.05 percent) and is the proportion of the total TAC allocated to the CDQ program for Pacific halibut.

4. Multiply the resulting quotient in step 3 by the 1988-1994 TAC average for Pacific halibut in area 2C, which is 9,700,000 lb (4,399.85 mt). The resulting product is 198,850 lb (90.20 mt) and is the total pounds of Pacific halibut that will be used as CDQ compensation from area 2C.

5. Divide the QS pool for area 2C, 57,575,315, by the TAC in that area that will not be used as compensation, 9,501,150 lb (4,309.65 mt). The resulting quotient, 6.06, is the QS per pound of noncompensating TAC.

6. Multiply the total pounds of Pacific halibut that will be used as compensation from area 2C, 198,850 lb (90.2 mt), by the QS per pound of non-compensating TAC, which is 6.06. The resulting product, 1,205,031, is how many QS will be created in area 2C to use as compensation.

7. Multiply the proportion of the total TAC going to the CDQ program for Pacific halibut, 0.0205, by the amount of IFQ the person loses to the CDQ program in area 4E, which is 3,239 lb (1.5 mt). The resulting product is 66.

8. Subtract the resulting product in step 7 from the amount of IFQ the person loses to the CDQ program in area 4E, which is 3,239 lb (1.5 mt). The resulting difference is 3,173 lb (1.4 mt).

9. Multiply the proportion of the total TAC going to the CDQ program for Pacific halibut, 0.0205, by the total lost IFQ to CDQ in all areas for Pacific halibut, which is 1,038,571 lb (471.1 mt). The resulting product is 21,291 lb (9.7 mt).

10. Subtract the resulting product in step 9 from the total lost IFQ to CDQ in all areas for Pacific halibut, which is 1,038,571 lb (471.1 mt). The resulting difference is 1,017,280 lb (9.7 mt).

11. Divide the resulting difference in step 8 by the resulting difference in step 10. The resulting quotient, 0.0031, is the proportion of new QS in area 2C the person will receive as compensation.

12. Multiply the resulting quotient in step 11 by the amount of new QS created in area 2C to be used as compensation, which is 1,205,031. The resulting product, 3,736, is the amount of QS the person will receive as compensation in area 2C.

This process would be repeated for each non-CDQ area by using the appropriate numbers for that area. (NOTE: This example uses data that may be changed before the CDQ compensation QS adjustment. For example, the QS pools, and therefore the resulting CDQ compensation QS, may be different than in this calculation once all applications have been received by NMFS and the initial QS pool is set on October 17, 1994. Although the eventual calculation may employ different numbers, the methodology of the calculation is accurately demonstrated.)

The CDQ compensation formula would be included in the regulations for the IFQ program at Sec. 676.24(i)(3). The formula would replace the current language contained in this paragraph that established January 31 of the first year of fishing under the IFQ program as the date for determining the QS pool for purposes of establishing compensation for CDQ allocations. Eliminating January 31 from this paragraph would permit the issuance of compensation QS at an earlier date. Furthermore, under proposed regulations implementing Amendment 31 to the Fishery Management Plan (FMP) for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and Amendment 35 to the FMP for Groundfish of the Gulf of Alaska, October 17, 1994, is being established as the specific date to determine the quota share pools. Proposed regulations to

implement Amendments 31 and 35 were published in the Federal Register June 28, 1994 (59 FR 33272). Using October 17, 1994, rather than January 31, as the date to establish the QS pools would relieve a restriction by allowing persons who are initially issued QS more time to transfer QS prior to the first IFQ season. Also, using a specific date ensures that all persons are treated in a similar manner. NMFS would be particularly interested in receiving public comment on relieving this restriction.

Classification

The RIR prepared for this rule incorporates by reference the final regulatory flexibility analysis (FRFA) prepared for the IFQ program, the program for which the CDQ compensation formula was designed. The FRFA supports the determination that the IFQ program may have a significant impact on a substantial number of small entities. Further information on the FRFA can be obtained by referring to the final rule for the IFQ program, published in the Federal Register November 9, 1993 (58 FR 59375). The RIR and the FRFA are available for review (see ADDRESSES).

A collection of information for the IFQ program was approved by the Office of Management and Budget, OMB control number 0648-0272. This action will not affect the collection-of-information requirements already approved for the IFQ program.

This proposed rule has been determined to be not significant for purposes of E.O. 12866. List of Subjects in 50 CFR Part 676

Fisheries, Reporting and recordkeeping requirements.

Dated: September 23, 1994. Samuel W. McKeen, Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 676 is proposed to be amended as follows:

PART 676--LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF Alaska

1. The authority citation for 50 CFR part 676 continues to read as follows: Authority: 16 U.S.C. 773 et seq. and 1801 et seq.

2. Section 676.24 is amended by revising paragraph (i)(3) to read as follows:

Sec. 676.24 Western Alaska Community Development Quota Program.

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(i) * * *

(3) Compensation of halibut and sablefish QS foregone due to the CDQ program will occur only in the first year of fishing under the IFQ program and will be calculated for each CDQ area using the following formula:

$$Q<INF>N = (Q<INF>C \times QSP<INF>N \times RATE) / (SUM<INF>CDQ - [RATE \times SUM<INF>TAC]) \times ([1 - RATE] - TAC) \times (QSP<INF>C \times [CDQ<INF>PCT - RATE])$$
 where:

Q<INF>N=quota share in non-CDQ area

Q<INF>C=quota share in CDQ area

QSP<INF>N=quota share pool in non-CDQ area

RATE=SUM<INF>CDQ/total allowable catch for all CDQ and non-CDQ areas

TAC=total allowable catch (average of the TAC for 1988-1994) for CDQ area

QSP<INF>C=quota share pool in CDQ area

CDQ<INF>PCT=CDQ percentage for CDQ area

SUM<INF>CDQ=sum [total allowable catch for CDQ area x CDQ<INF>PCT] (based on average TAC)

SUM<INF>TAC=sum [total allowable catch for CDQ area] (based on average TAC)

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