

SUPPORTING STATEMENT

ALASKA PACIFIC HALIBUT AND SABLEFISH FISHERIES INDIVIDUAL FISHING QUOTAS (IFQs)

OMB CONTROL NO. 0648-0272

JUSTIFICATION FOR CHANGE: The Application for IFQ/CDQ Hired Master Permit would be revised to conform with a regulatory amendment to the vessel ownership requirements of the Individual Fishing Quota (IFQ) Program for fixed-gear Pacific halibut and sablefish fisheries in and off of Alaska. [associated rule RIN 0648-BB78]

INTRODUCTION

The IFQ Program is a limited-access system for managing the fixed-gear fisheries for Pacific halibut and sablefish in waters of the EEZ off of Alaska. The International Pacific Halibut Commission (IPHC) and National Marine Fisheries Service (NMFS) manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). NMFS manages fishing for sablefish through regulations established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS Alaska Region administers the IFQ Program. Regulations pursuant to the Convention are set forth at [50 CFR 300.60 through 300.65](#). Regulations implementing the IFQ program are set forth at [50 CFR 679 Subpart D](#).

The North Pacific Fishery Management Council (Council) designed the IFQ Program to preserve, as much as possible, the historical character of the Pacific halibut and sablefish fisheries. So that these fishermen may continue to do so as quota share (QS) holders, the IFQ Program allows initial recipients of catcher vessel QS to employ hired masters to fish his or her IFQ, but only if the initial recipient owns the vessel on which the IFQ species are harvested. By limiting this exception to initial recipients, the Council anticipated that all initial recipients would eventually retire from fishing, at which time their QS would be transferred to other qualified fishermen and the IFQ fisheries would again become predominantly owner-operated.

An IFQ hired master permit authorizes the individual identified on the IFQ hired master permit to land IFQ halibut or IFQ sablefish for debit against the specified IFQ permit until the IFQ hired master permit expires, is revoked, suspended, surrendered in accordance with 50 CFR 679.4(a) (9), modified under 15 CFR part 904, or cancelled on request of the IFQ permit holder.

Current regulations have not prevented some QS holders from circumventing the intent of the vessel ownership requirement by acquiring temporary ownership interest in a vessel expressly for the purpose of hiring a master to fish the QS holder's IFQ permit. This action would revise the vessel ownership regulations to require QS holders to own a minimum of 20 percent interest in their vessels for at least 12 consecutive months prior to the submission of an Application to Hire a Master to NMFS. This regulatory amendment would prevent QS holders from acquiring temporary vessel ownership in order to circumvent Council intent of an owner-operated fishery.

However, in response to a public comment, NMFS concluded that the Council did not intend to impose the 12-month vessel ownership requirement on non-individual QS holders, such as corporations, partnerships, or associations. Non-individual QS holders must hire skippers because they are legal entities only, not natural persons. In addition, non-individual QS holders were not causing the problem that the Council sought to solve. Individual QS holders have an incentive for temporary ownership of a vessel: they can hire masters and use their IFQ without being on board the vessel. Non-individual QS holders do not have this incentive for temporary ownership of vessels from which their IFQ is fished. Non-individual QS holders must use a hired master to harvest their IFQ.

A. JUSTIFICATION

NMFS established the IFQ Program to improve the long-term productivity of the sablefish and halibut fisheries by further promoting the conservation and management objectives of the Magnuson-Stevens Act and the Halibut Act while retaining the character and distribution of the fishing fleets as much as possible. NMFS designed the requirements to maintain a predominantly owner-operated fishery, which was a key characteristic of the halibut and sablefish fisheries prior to the implementation of the IFQ Program.

The IFQ Program provides each fisherman an IFQ that can be used any time during the open season to allow each fisherman to set his/her own pace and fishing effort. Under the IFQ Program, QS represents a harvesting privilege for a person. Annually, NMFS issues IFQ to QS holders to harvest specified poundage. The specific amount of IFQ held by a person is determined by the number of QS units held, the total number of QS units issued in a specific regulatory area, and the total pounds of sablefish or halibut allocated for the IFQ fisheries in a particular year. Fishermen may harvest the IFQ over the entire fishing season, which extends approximately from March through November 15.

1. Explain the circumstances that make the collection of information necessary.

The objective of this proposed action is to improve implementation of the owner-on-board provisions of the original IFQ Program, while providing an opportunity for an owner to hire a master when appropriate. The burden is changed to increase the time-to-complete the application. Due to a public comment on the proposed rule, the time-to-complete a hired master application is changed from 30 minutes to 60 minutes per response.

2. 1Explain how, by whom, how frequently, and for what purpose the information will be used. 1If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Vessel Ownership Requirements

◆ **An IFQ permit holder who is not an individual** (e.g., a corporation, partnership, association, or other non-individual entity)

(1) must designate a hired master to fish their IFQ or to obtain a permit to access their account and

(2) must own a minimum of 20 percent ownership interest in the vessel that the hired master will use to fish their IFQ.

◆ **An IFQ permit holder who is an individual**

may designate a master to harvest catcher vessel quota share (QS) (QS in Category B, C, or D) if the IFQ permit holder:

(1) was an initial recipient of QS, and

(2) meets the vessel ownership requirements, EXCEPT
an IFQ permit holder may not designate a master to harvest

- halibut IFQ in IPHC Regulatory Area 2C, or
- sablefish IFQ in southeast Alaska

(3) for the 12 months prior to filing the application to hire a master, the individual IFQ permit holder

- must own (either directly or indirectly) at least 20 percent of the vessel which the hired master will use to fish the IFQ belonging to the IFQ permit holder, or
- must meet the requirements for an exemption from the 12-month vessel ownership requirement due to total vessel loss, irreparable vessel damage, or temporary vessel disablement.

An IFQ permit holder owns a vessel *directly* by owning the vessel in the name of the IFQ permit holder. An IFQ permit holder owns a vessel *indirectly* by owning an interest in the corporation, partnership, association or other entity that owns the vessel.

The IFQ permit holder annually must submit proof of ownership (USCG Form 2692, Report of Marine Accident, Injury or Death) to NMFS for a vessel that the hired master will use to fish the IFQ.

- ◆ **For a documented vessel, an IFQ permit holder who is not an individual** (e.g., corporation, partnership, association, or other non-individual entity) is listed as a vessel owner on the United States Coast Guard (USCG) Abstract of Title for the vessel. If the USCG Abstract of Title does not show that the IFQ permit holder owns a minimum 20-percent of the vessel, the IFQ permit holder *must submit additional written documentation*.
- ◆ **For a documented vessel, an IFQ permit holder who is an individual** is listed as a vessel owner on the USCG Abstract of Title for the vessel. If the USCG Abstract of Title does not show that the individual IFQ permit holder owns a minimum 20-percent of the vessel for the 12 months prior to this application, the individual IFQ permit holder *must submit additional written documentation*.
- ◆ **For an undocumented vessel, an IFQ permit holder who is not an individual** (corporation, partnership, association or other non-individual entity) is listed as a vessel

owner on the ADF&G license or registration for the vessel. If the ADF&G vessel license or registration does not show that the IFQ permit holder owns a minimum 20-percent of the vessel, the IFQ permit holder must *submit additional written documentation*.

- ◆ **For an undocumented vessel, an IFQ permit holder who is an individual** is listed as a vessel owner on the ADF&G license or registration for the vessel. If the ADF&G vessel license or registration does not show that the individual IFQ permit holder owns a minimum 20-percent of the vessel for the 12 months prior to the application, the individual IFQ permit holder must *submit additional written documentation*.
- ◆ **Indirect ownership of vessel:** If the IFQ permit holder is not listed as an owner of the vessel on the USCG Abstract of Title or the ADF&G vessel license or registration, the IFQ permit holder must submit documentation establishing indirect ownership of the vessel. Such documentation may be corporate annual reports, corporate meeting minutes, stock certificates, other corporate, partnership, or association documents, the vessel purchase and sales agreement, etc.
- ◆ **Not required to send proof of vessel ownership.** Category "A" (freezer vessel) IFQ permit holders are not required to send proof of vessel ownership but must provide the vessel information.
- ◆ **Not required to send proof of vessel ownership.** CDQ permit holders are not required to provide the vessel information requested

Exemptions

- ◆ **Total loss of a vessel or irreparable damage to a vessel**
An individual IFQ permit holder, who is seeking to use a hired master on his or her vessel, may receive an exemption from the *12-month vessel ownership requirement*. *However*, the IFQ permit holder still must own a minimum 20-percent ownership interest in that vessel.

Causes of loss or damage: An act of God; an act of war; a collision; an act or omission of a party other than an owner or representative of the vessel, or any other event not caused by the willful misconduct of the individual IFQ permit holder or representative.

Halibut or sablefish IFQ harvest: Prior to loss or damage, the vessel was used to harvest halibut or sablefish IFQ of the IFQ permit holder.

Attach copy of USCG Form 2692, Report of Marine Accident, Injury or Death, submitted to the USCG concerning this incident.

20-percent ownership interest. The IFQ permit holder is applying for a hired master permit to harvest IFQ from his or her vessel in which he or she owns a minimum 20-percent ownership interest as of the date of this application.

◆ **Vessel is temporarily disabled and unavailable for at least 60 days**

Causes of temporary disablement: result from repairs required by an accident that materially and adversely affected the vessel's seaworthiness or fitness for service. The repairs from the accident require at least 60 days to be completed.

Halibut or sablefish IFQ harvests: Prior to temporary disablement, the vessel was used to harvest halibut or sablefish IFQ of the IFQ permit holder.

Attach copy of USCG Form 2692, Report of Marine Accident, Injury or Death, submitted to the USCG concerning this incident.

20-percent ownership interest. The IFQ permit holder is applying for a hired master permit to harvest IFQ from his or her vessel in which he or she owns a minimum 20-percent ownership interest as of the date of this application.

A hired skipper or hired master is the person who is named on a hired master permit. The hired master permit enables the hired master to harvest the halibut or sablefish on the IFQ permit that NMFS has issued to the QS holder. The QS holder applies for the hired master permit, designates the individual who will be the hired master, and designates the vessel that the hired master will use.

Current regulations already require an applicant to submit the U.S. Abstract of Title issued by the USCG, State of Alaska vessel license registration, or additional documentation establishing 20-percent ownership interest in a vessel on an Application for IFQ/CDQ Hired Master Permit. Therefore, the same types of documentation would be required by an applicant as a result of this action, although more recent documentation may need to be provided for NMFS to determine whether the QS holder has had at least 20-percent ownership interest in the vessel for at least 12 consecutive months. The proposed regulations, if approved, would not be effective until 13 months after the effective date of the final rule. This would provide sufficient time for compliance by QS holders.

The objective of this proposed action is to improve implementation of the owner-on-board provisions of the original IFQ Program, while providing an opportunity for an owner to hire a master when appropriate. The burden is changed to increase the time-to-complete the application. Due to a public comment on the proposed rule, the time-to-complete a hired master application is changed from 30 minutes to 60 minutes per response.

Application for IFQ/CDQ Hired Master Permit, Respondent	
Estimated number of respondents IFQ = 375 CDQ halibut = 375	750
Total annual responses Number of responses per year = 1	750
Total Time burden Time per response = 60 min	750 hr
Total personnel cost (750 x \$25)	\$18,750
Total miscellaneous cost Postage (0.45 x 600 = 270) Fax (\$6 x 150 = 900) Photocopy (0.05 x 2pp x 750 = 75)	\$1,245

Application for IFQ/CDQ Hired Master, Federal Government	
Total annual responses	750
Total Time burden Time per response = 30 min	375 hr
Total personnel cost (375 x \$25)	\$9,375
Total miscellaneous cost	0

1It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Forms and applications are “fillable” on the computer screen at the NMFS Alaska Region Home Page at www.alaskafisheries.noaa.gov, except for those forms completed by OLE officers via the telephone. These forms and applications may be completed on the computer screen by the participant, downloaded, printed, and faxed or mailed to NMFS.

4. Describe efforts to identify duplication.

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

NMFS has defined all IFQ halibut vessels as small businesses, for the purpose of this analysis. This collection of information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Without the specified reporting scheme described in this document, the IFQ Program would be unable to proceed.

The lack of adequate information to manage the IFQ program would result in the fishery management decision-making process being less objective, more political, and potentially less equitable. This would decrease the credibility of the fishery management process and result in an unnecessarily costly and ineffective management system. The cost of making decisions based on inadequate information would adversely affect the viability of the IFQ fishing industry.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Not Applicable.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

NMFS published a proposed rule in the *Federal Register* on October 31, 2012 (77 FR 65843). The 30-day comment period on the proposed rule ended on November 30, 2012. NMFS received 7 letters that contained 22 comments. The comments and responses relating to paperwork are provided below:

Comment 1. One commenter supports the proposed rule. The commenter supports the Council's goal of preserving the historical character of the commercial Pacific halibut and sablefish fisheries as owner/operator fisheries and believes the proposed rule is an effective way to promote that goal.

Response. NMFS notes this support.

Comment 2. The proposed rule accomplishes little in light of recent Council action that limits the exemption that initial individual recipients have from the owner-on-board requirement for QS that they acquire after February 12, 2010. This other Council action violates the American with Disabilities Act.

Response. The commenter is correct that the Council has recommended, and NMFS has recently proposed, a rule that largely eliminates the exemption from the owner-on-board requirement for QS that initial individual QS recipients acquire by transfer after February 12, 2010 (78 FR 24707, April 26, 2013).

Comment 3. The proposed rule underestimates the documentation and time required to prove ownership of a vessel by other types of documentation.

Response. Under the current regulation, a QS holder must prove a minimum 20-percent ownership of a vessel by standard documents that a vessel owner should have fairly easily available: an Abstract of Title for a federally documented vessel and a State of Alaska vessel license or registration for a State-licensed vessel. If those documents show a minimum of 20-percent ownership for the past 12 months, the QS holder need not submit other types of documentation. If, for any reason, the standard documents do not show that the QS holder has a 20-percent ownership interest for at least 12 months, the QS holder must submit additional documentation.

The need to submit other types of documentation seems most likely to occur when an individual QS holder owns a vessel with other persons. NMFS hopes, and expects, that most QS holders would have formalized their ownership arrangements with other persons in documents that exist independently from the application by the QS holder to use a hired master. Proving vessel ownership should not require creating documents but merely retrieving them.

But since retrieving documents takes time, and that time should be included in the estimate of compliance time, NMFS agrees that the time estimate in the proposed rule was too low. The time estimate in the proposed rule was an estimate of an average of 30 minutes to fill out the form, "Application for IFQ/CDQ Hired Master Permit." NMFS agrees that the average time to fill out the form would likely be more than 30 minutes. NMFS revises its estimate to the average time to fill out the Application for IFQ/CDQ Hired Master Permit from 30 minutes to 60 minutes.

Comment 4. Corporate owners of vessels do not have the ability to be on board the vessel and thus have no alternative to fishing their IFQ from a vessel that they have owned for the 12 months prior to the harvest. Corporate owners could not upgrade to a new vessel and use it immediately to fish their IFQ. Corporate owners would have to maintain a 20-percent interest in a second vessel in case they experienced a problem with their first vessel that was not covered by this rule.

Response. NMFS agrees with this comment. NMFS withdraws the changes in the proposed rule to § 679.42(j), which is the regulation that governs the use of QS held by corporations and other non-individual entities. NMFS concludes that the Council did not intend to apply the 12-month vessel ownership requirement to the use of QS by non-individual entities. NMFS explains the basis for this conclusion in the section, "Changes and Clarifications in the Final Rule."

In response to public comments on the proposed rule and further review by NMFS, NMFS changed the regulatory text between the proposed rule and this final rule. The five substantive changes are discussed below.

1. The final rule clarifies § 679.42(i)(1)(i) and (ii) that the formal ownership documents for a vessel must list the individual QS holder as an owner of the vessel and that, if these formal documents do not show the individual QS holder as owning the required 20-percent ownership or owning 20 percent for 12 months, the individual QS holder may prove either of those facts with additional written documentation.

The final rule provides that an individual QS holder may claim an exemption from the owner-on-board requirement if the individual QS holder is an owner of a documented vessel “as shown by the U.S. Abstract of Title issued by the U.S. Coast Guard that lists the individual [QS holder] as an owner and, if necessary to show 20-percent ownership for 12 months, additional written documentation.” With a non-documented vessel, an individual QS holder may claim an exemption from the owner-on-board requirement if the individual QS holder is an owner of the vessel “as shown by a State of Alaska license or registration that lists the individual [QS holder] as an owner and, if necessary to show 20-percent ownership for 12 months, additional written documentation.”

2. The final rule clarifies that the 12-month vessel ownership requirement applies to QS holders who seek exemption from the owner-on-board requirement based on indirect ownership of a vessel from which their IFQ will be fished and QS holders who seek an exemption based on direct ownership of a vessel from which their IFQ will be fished. A QS holder owns a vessel directly if the QS holder owns the vessel in his or her name. A QS holder owns a vessel indirectly if the QS holder owns an interest in a corporation or other entity that owns the vessel.

3. The final rule clarifies that, in the event of vessel loss, the QS holder does not have to meet the 12-month vessel ownership requirement but still must own a 20-percent interest in the vessel from which the IFQ will be fished.

4. The final rule eliminates the phrase “or negligence” from the proposed rule at § 679.42(i)(6). The “or negligence” language was the subject of a public comment noted in Comment 11. NMFS agrees with the comment and concludes that the proposed rule mistakenly required NMFS in certain circumstances to determine if a QS holder lost a vessel due to negligence and to deny suspension of the 12-month vessel ownership requirement on that basis. NMFS concludes that the proposed rule text did not comport with Council intent and that the negligence limitation in the proposed rule text was in error. NMFS concludes that the proposed rule text correctly contained a limitation on a QS holder’s ability to use a hired master if the QS holder lost a vessel due to willful misconduct of the QS holder or agent of the QS holder.

5. The final rule eliminates the changes in the proposed rule to § 679.42(j). Section 679.42(j) is the current regulation that governs the use of IFQ by corporations, partnership, associations, or other non-individual entities that hold QS. The proposed rule added the 12-month ownership requirement to section 679.42(j). NMFS concludes that the Council did not intend to impose the 12-month vessel ownership requirement on non-individual QS holders, such as corporations, partnerships, or associations.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The information collected is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*); and also under [NOAA Administrative Order \(AO\) 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics. Assurance of confidentiality under these authorities is stated on all forms.

A Privacy Act System of Records Notice (SORN), COMMERCE/NOAA System-19, Permits and Registrations for United States Federally Regulated Fisheries, was published in the [Federal Register](#) on April 17, 2008 (73 FR 20914). A revised SORN is under review at DOC.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not involve information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Estimated total respondents: 1,686 (470 entities eligible to receive QS or IFQ by transfer, 750 hired masters, and 445 registered buyers and 21 CQEs). Estimated total responses: 24,930. Estimated total burden hours: 10,354, increased from 9,979. Estimated total personnel costs: 258,850. Personnel labor costs are estimated to the average wage equivalent to a GS-9 employee in Alaska, including COLA, at \$25 per hour.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Estimated total miscellaneous costs: \$13,551 for recordkeeping and recording costs.

14. Provide estimates of annualized cost to the Federal government.

Estimated total responses: 23,680. Estimated total burden hours: 4,382 hours. Estimated total personnel costs: \$109,750. Personnel labor costs are estimated to the average wage equivalent to a GS-9 employee in Alaska, including COLA, at \$25 per hour.

15. Explain the reasons for any program changes or adjustments.

Program Change: Improvement of implementation of the owner-on-board provisions of the original IFQ Program, while providing an opportunity for an owner to hire a master when appropriate. The burden is changed to increase the time to complete the application. Due to a public comment on the proposed rule, the time-to-complete a hired master application is changed from 30 minutes to 60 minutes per response.

IFQ/CDQ hired master permit application

an increase of 375 hours burden, 750 hr instead of 375 hr.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The OMB Control Number and the expiration date are not found on the Administrative Waiver, PNOL, Departure Report, Transshipment Authorization, and Dockside Sales Receipt, which are submitted by telephone.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.